

PUBLIC DEFENDER COMMISSION



*With Governor's
Recommendations*

**Missouri State Public Defender System
Budget Request
Fiscal Year 2012**

PUBLIC DEFENDER COMMISSION

Budget Request Fiscal Year 2012

J. Marty Robinson
State Public Defender, Director
Retiring February 28, 2011
573-526-5210

Cathy R. Kelly
State Public Defender, Director
Effective March 1, 2011
314-749-5480



Office of the State Public Defender
231 East Capitol
Jefferson City, Missouri 65101
573-526-5210 – Phone 573-526-5213 – Fax

September 28, 2010

Dear Governor Nixon,

Missouri's Public Defender System, and with it the entire criminal justice system, continues to struggle. Although creative efforts are making minimal impact, the crisis remains. There are simply too many cases and not enough public defender resources.

For years, the State Public Defender has sought the resources needed to meet the state's constitutional obligations. Continually, the state has given priority to other requests for its resources. In tough economic times, we were told to 'think outside the box', looking for alternatives to simply increasing resources. We've tried, and our efforts continue to this day:

- In 2005, the Missouri Bar formed a Task Force to study the State Public Defender.
- In 2006, the Missouri Senate assigned an Interim Committee to study the State Public Defender.
- Both studies found the public defender was in crisis, requiring either a reduction in caseload or an increase in resources or some combination thereof to correct the dramatic imbalance between defender staffing and the caseload those defenders were expected to handle.

- In 2007, the Missouri Supreme Court formed a Committee to study and propose a Court Rule, limiting public defender caseloads, only to have that effort rejected by the trial judiciary.
- In 2008, the State Public Defender Commission passed a State Rule (CSR) to limit the caseload its defenders were expected to carry. That effort was struck down by the Missouri Court of Appeals and appealed to the Missouri Supreme Court.
- In 2009, the legislature passed SB 37 which, among other things, would have provided a process by which individual public defender caseloads could be limited to a level they could handle effectively. Your veto message, with which we do not disagree, indicated SB37 was not a 'solution' to ensure the state's compliance with its constitutional obligations and that what was required was more resources.
- In December of 2009, the Missouri Supreme Court ruled that the Public Defender Commission did have the authority to turn away cases when the lawyers are too overloaded to effectively handle more, but did not have the statutory authority to triage the defender caseload by turning away 'categories' of cases. Instead, when an office's capacity is reached, the only option is to turn away all cases, regardless of severity or confinement status of the accused.

- Now, in 2010, we are in fact closing offices to new cases in accordance with the December, 2009 MO Supreme Court opinion. Some courts are making plans to dispose of juvenile cases, probation revocations, and certain misdemeanor cases without any counsel at all. Others are forming committees to explore involuntary appointments of the private bar. Still others dispute our interpretation of the Supreme Court opinion authorizing office closure and that matter is once again being litigated in the MO Supreme Court.
- Two defender offices have already begun turning away cases. Fourteen more are in the pipeline to begin doing so in the next few months. In all, those sixteen offices provide indigent defense services in 56 of Missouri's 114 counties. What is to happen to the cases MSPD cannot handle remains an unsettled question.

For well over five years now we have danced to this tune. But, the music is the same. We have too many cases and not enough resources to handle them effectively. Innocent people are at risk of going to jail because the state of Missouri cannot provide them with lawyers who have the time and resources to adequately investigate, research, or litigate their case.

Just this week, legislation was filed in the U.S. Congress by the Chair of the Senate Judiciary Committee that would authorize the U.S. Department of Justice to sue state and local governments and indigent defense providers with a pattern or practice of failing to meet their Sixth Amendment obligations. U.S. Attorney General Eric Holder has specifically and publicly named Missouri as one example of a broken indigent defense system, in a speech he made in New York City last year. The time to address this problem is now, before a federal court does it for us.

This budget request for FY2012 seeks the resources we need. It is presented to you in relatively few new decision items. Each is critical.

First, we need additional attorneys, both in our trial and appellate divisions. Our trial division, which handles everything from misdemeanors to first degree murder cases in every trial jurisdiction in the state, already has multiple offices on limited availability and pending certification. Once these certified offices reach their capacity, all cases, misdemeanor to murder, must be turned away. It is not what this Department wants, yet, we must exercise a 'first-come first-served' policy each month if we are to be competent and professional to all we do serve. Those at the back of the line go without public defender services. In all, Missouri is needs 106 more lawyers in its trial division to handle all cases needed public defender services. The same issue exists in our appellate division, where lawyers are seeking three, four, and five time extensions from the appellate courts because they have too many briefs to prepare in the hours available to them. That division needs 19.5 additional lawyers just to meet the current demands of our appeals and post-conviction relief cases.

Second, sufficient non-lawyer staff is critical if attorneys are to be effective and efficient in the use of their precious time. Use of lawyer time for functions that non-lawyers can perform is poor law office management that we cannot afford. Presently, the State Public Defender has 1 paralegal for every 56.5 lawyers; 1 secretary/clerk for every 5; 1 investigator for every 6; and 1 legal assistant for every 8.67 lawyers. It is little wonder that repeated studies cite attorneys performing non-lawyer tasks as a major inefficiency. But, with insufficient support staff, someone has to answer the phone and make the copies. That is, far too often, the attorney.

Finally, we must have a place for all attorneys and staff to work. The majority of MSPD offices are bursting at the seams, inadequate to handle even the existing staff, much less to absorb the desperately needed increase in staff. This budget request joins with the Missouri Association of Counties in requesting the long overdue elimination of the county funding system of

public defender office space embodied in RS Mo. 600.040.1 and seeks the funding to allow the State Public Defender to secure its own office space as needed, without the ongoing state/county conflicts – a conflict sure to reach new levels of litigation if the counties were asked to provide office space for the kind of influx of staffing we need.

The recent economic downturn has hit county governments hard and most are struggling to pay for their own government needs, much less subsidizing what most county officials see as a state responsibility. As a result, public defenders routinely work in inadequate office space – ranging from offices with a dirt floor file room that turns to mud every time it rains, to facilities with severe leakage and/or toxic mold issues, to ‘simple’ overcrowding where support staff are housed in the break room and telephone closets become attorney offices.

Missouri statute (RSMo. 600.101) provides for disagreements between the Office of State Public Defender and local counties to be litigated before the Judicial Finance Commission and, ultimately, the Missouri Supreme Court. However, MSPD’s attempts to use this resource in the past have caused significant county/state hostility with angry county officials pressuring their local legislators and legislative leadership to intervene on the county’s behalf. The current system feeds confrontation, severely and unnecessarily straining county/state relations, placing an unfair burden on overstretched county budgets and leaving most public defenders working in office conditions well below the basic standard for any other state government department.

The State Public Defender Commission continues to recommend an appropriate amendment to RSMo. 600.040.1, and the requested funding, which would relieve Missouri’s counties of this obligation and allow this Department to control its own office facilities in the same efficient and productive manner available to every other department of state government.

We didn’t get into this situation yesterday. But, if we’re going to fix this situation, today is the day to start. We are aware that times are tough and the state is unlikely to have enough resources to meet all needs of all state departments. Ironically, we have in the past been told that one of the reasons so little money is available for ‘discretionary’ items like public defense is that the state is struggling under large amounts of ‘mandated’ expenditures, such as funding the Department of Corrections costs to house its growing population of inmates. In truth, of course, incarceration is *not* mandatory, but effective assistance of counsel *before* incarceration is. It’s long past time that constitutional reality was both recognized and acted upon.

We appreciate the recognition by both your administration and the General Assembly that it is time to do more than talk about the constitutional crisis in Missouri’s public defense. We ask for your leadership and support with this budget request, in particular the four-year phase-in plan to address the caseload crisis. The cost is high, but the risk to Missouri’s criminal justice system – and to Missouri itself -- is greater.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Marty Robinson", written in a cursive style.

J. Marty Robinson, Director
Missouri State Public Defender System

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PROGRAM DESCRIPTION

Department: Office of the State Public Defender

Program Name: Public Defender

Program is found in the following core budget(s):

Legal Services, Federal & Grants, Legal Defense & Defender Fund

1. What does this program do?

In response to the guarantee of effective assistance of counsel contained in both the United States and Missouri Constitutions, the Missouri State Public Defender System was established on April 1, 1982 as a "system for providing defense services to every jurisdiction within the state by means of a centrally administered organization having a full-time staff." Through this Department of State Government, constitutionally required defense services are provided to eligible persons. This was accomplished through an organized program able to respond to the needs of all judicial jurisdictions within the state. As the caseloads have increased with no corresponding increase in resources, the Public Defender is no longer capable to respond to all of these needs.

2. What is the authorization for this program, i.e., federal or state statute, etc.? (Include the federal program number, if applicable.)

The Missouri State Public Defender System is created by authority of Chapter 600 RSMo. and in recognition of the United States Constitutional guarantees of equal protection and due process of law. The system was established in 1972.

3. Are there federal matching requirements? If yes, please explain.

No

PROGRAM DESCRIPTION

Department: Office of the State Public Defender

Program Name: Public Defender

Program is found in the following core budget(s):

Legal Services, Federal & Grants, Legal Defense & Defender Fund

4. Is this a federally mandated program? If yes, please explain.

THE CONSTITUTIONAL MANDATE FOR PUBLIC DEFENSE

The United States Supreme Court has interpreted the Sixth Amendment of the U.S. Constitution to require the appointment of counsel in any state or federal criminal prosecution that may lead to imprisonment for any period of time.

See generally, *Alabama v Shelton*, 535 US 654, 662 (2002); *Strickland v Washington*, 466 U.S. 688, 684-86 (1984); *Scott v Illinois*, 440 U.S. 367, 373-74 (1979); *Argersinger v. Hamlin*, 407 U.S. 25, 30-31 (1972); *Gideon v. Wainwright*, 372 U.S. 335, 342-45 (1963).

CONSTITUTION OF THE UNITED STATES OF AMERICA

BILL OF RIGHTS, AMENDMENT VI

In all criminal wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

CONSTITUTION OF THE STATE OF MISSOURI

ARTICLE I, SECTION 18(A)

That in criminal prosecutions the accused shall have the right to appear and defend, in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by an impartial jury of the county.

PROGRAM DESCRIPTION

Department: Office of the State Public Defender

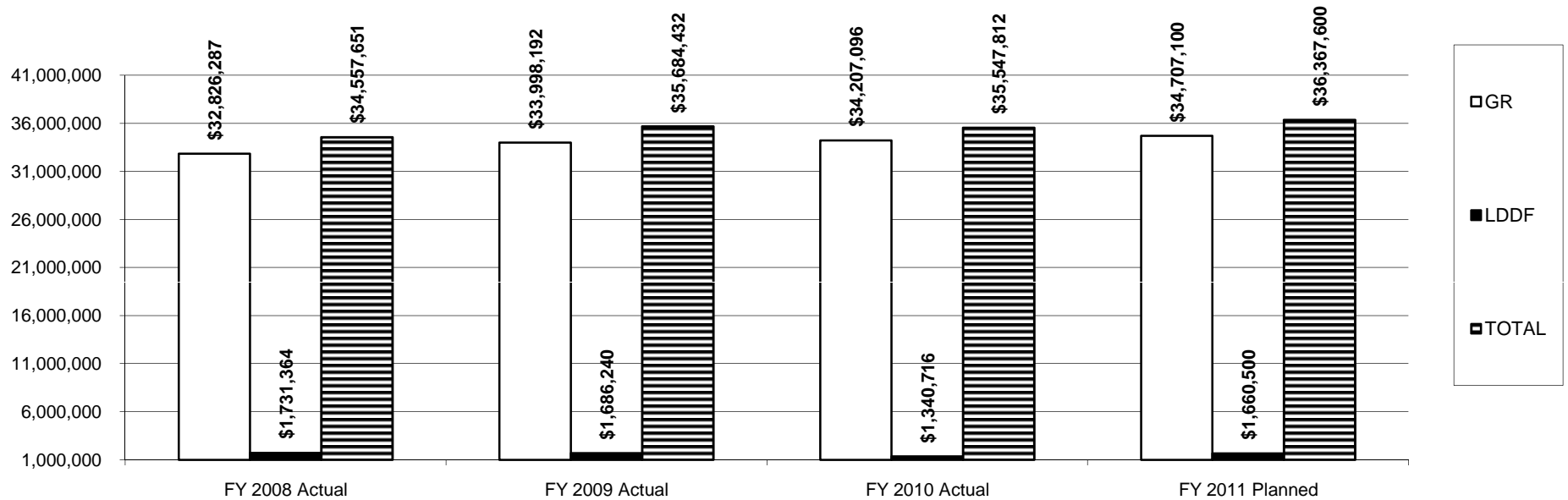
Program Name: Public Defender

Program is found in the following core budget(s):

Legal Services, Federal & Grants, Legal Defense & Defender Fund

5. Provide actual expenditures for the prior three fiscal years and planned expenditures for the current fiscal year.

Program Expenditure History



6. What are the sources of the "Other " funds?

Legal Defense & Defender Funds - Payments collected from clients of the Missouri State Public Defender System

PROGRAM DESCRIPTION

Department: Office of the State Public Defender

Program Name: Public Defender

Program is found in the following core budget(s):

Legal Services, Federal & Grants, Legal Defense & Defender Fund

7a. Provide an effectiveness measure.

Unlike every other state agency, MSPD only does one thing and it is constitutionally mandated. **MSPD has no mechanism with which to control or reduce its workload to correspond with its staffing levels, short of refusing cases and throwing the state of Missouri into federal court for constitutionally violating the right of indigent clients to effective assistance of counsel.**

An American Bar Association Opinion issued on May 13, 2006 reiterates that Public Defenders are as obligated as any other attorney under their ethical and professional obligations to refuse cases when caseloads become too high for them to adequately handle the workload and to provide adequate representation. In Missouri, there is currently no back-up plan in place for provision of counsel, should the public defenders have to refuse cases in accordance with their ethical and professional obligations not to take on more cases than they can effectively handle.

In Fiscal Year 2010, the Missouri State Public Defender System opened 84,616 new cases.

PROGRAM DESCRIPTION

Department: Office of the State Public Defender

Program Name: Public Defender

Program is found in the following core budget(s):

Legal Services, Federal & Grants, Legal Defense & Defender Fund

7b. Provide an efficiency measure.

In December of 2000, the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, published the “Compendium of Standards for Indigent Defense Systems”, “A Resource Guide for Practitioners and Policymakers”. The Compendium of Standards for Indigent Defense Systems brings together standards from a wide variety of sources. It shows the different ways in which practice and procedures are addressed. It also addresses: administration of defense systems, attorney performance, capital case representation, appellate services, and juvenile justice defense. The report of the Task Force on the Courts of National Advisory Commission on Criminal Justice Standards and Goals is included in the Compendium.

NAC Standard 13.12. Workload of Public Defenders

The caseload of a public defender office should not exceed the following:

Caseload of attorneys per year:

Felonies—Not more than 150

Misdemeanors—Not more than 400

juvenile Cases—not more than 200

Mental Health Cases— not more than 200;

For purposes of this standard, the term case means a single charge or set of charges concerning a defendant (or other client) in one court in one proceeding. An appeal or other action for postjudgment review is a separate case. If the public defender determines that because of excessive workload, the assumption of additional cases or continued representation in previously accepted cases by his office might reasonably be expected to lead to inadequate representation in cases handled by him, he should bring this to the attention of the court. If the court accepts such assertions, the court should direct the public defender to refuse to accept or retain additional cases for representation by his

PROGRAM DESCRIPTION

Department: Office of the State Public Defender

Program Name: Public Defender

Program is found in the following core budget(s):

Legal Services, Federal & Grants, Legal Defense & Defender Fund

7c. Provide the number of clients/individuals served, if applicable.

Missouri State Public Defender System <i>Cases Assigned by Case Type</i>													
	Murder 1st	Other Homicide	Felony	Murder + Felony Caseload	Misdemeanor	Juvenile	PCR	Other	Probation Violation	Appeals	Total Opened	Total Closed	Closed to Open Ratio
FY10 ACTUAL	161	164	34,781	35,106	24,768	2,393	1,141	131	20,147	930	84,616	81,346	0.9614
FY09 ACTUAL	121	180	33,226	33,527	25,181	2,513	1,264	181	19,518	898	83,082	81,704	0.9834
FY08 ACTUAL	158	154	34,766	35,078	26,098	2,715	1,061	182	19,555	716	85,405	85,116	0.9966
FY07 ACTUAL	174	161	35,109	35,444	27,816	3,380	828	129	19,157	743	87,497	85,133	0.9730
FY06 ACTUAL	138	146	35,339	35,623	28,227	3,676	838	46	19,412	710	88,532	83,260	0.9405
FY05 ACTUAL	156	124	33,282	33,562	28,931	3,881	937	120	20,012	688	88,131	87,180	0.9892
FY04 ACTUAL	154	140	34,422	34,716	28,018	4,258	807	98	20,263	756	88,916	86,356	0.9712
FY03 ACTUAL	195	114	35,425	35,734	25,807	4,147	806	103	18,479	832	85,908	81,059	0.9436
FY02 ACTUAL	163	132	33,183	33,478	25,147	3,918	802	64	18,047	750	82,206	77,165	0.9387
FY01 ACTUAL	182	125	29,934	30,241	22,903	4,488	711	82	17,663	698	76,786	73,438	0.9564
FY00 ACTUAL	147	109	28,019	28,275	24,119	4,998	763	76	16,768	739	75,738	69,591	0.9188
FY99 ACTUAL	182	108	28,892	29,182	23,721	4,629	797	112	14,488	809	73,738	74,570	1.0113
FY98 ACTUAL	196	87	31,591	31,874	24,676	4,270	674	138	14,141	689	76,462	74,495	0.9743
FY97 ACTUAL	169	79	29,663	29,911	21,912	4,075	513	156	13,437	839	70,843	67,870	0.9580
FY96 ACTUAL	175	88	30,198	30,461	23,069	3,612	707	178	11,444	1,038	70,509	70,664	1.0022
FY95 ACTUAL	256	109	27,688	28,053	17,696	3,916	719	165	9,362	1,138	61,049	61,710	1.0108
FY94 ACTUAL	255	152	25,338	25,745	17,852	3,374	682	201	8,225	1,017	57,096	52,453	0.9187
FY93 ACTUAL	301	136	24,402	24,839	15,883	3,146	766	249	7,301	872	53,056	52,363	0.9869
FY92 ACTUAL	282	37	25,458	25,777	19,974	3,372	1,129	167	5,321	569	56,309	55,651	0.9883
FY91 ACTUAL	193	63	21,304	21,560	13,941	2,713	588	169	5,051	820	44,842	49,038	1.0936
FY90 ACTUAL	227	109	23,336	23,672	14,627	3,300	732	369	5,834	1,094	49,628	46,425	0.9355
FY89 ACTUAL	193	149	20,838	21,180	12,902	3,298	1,342	418	5,074	1,243	45,457	42,532	0.9357
FY88 ACTUAL	202	161	20,640	21,003	12,427	3,455	1,006	470	4,475	920	43,756	40,117	0.9168
FY87 ACTUAL	199	145	19,254	19,598	11,736	3,564	755	443	4,308	728	41,132	37,081	0.9015
FY86 ACTUAL	166	175	17,042	17,383	10,602	3,328	612	611	3,815	608	36,959	34,491	0.9332
FY85 ACTUAL	152	172	15,397	15,721	9,126	3,500	543	522	3,293	632	33,337	32,410	0.9722
FY84 ACTUAL	176	175	15,048	15,399	9,256	3,058	534	499	2,878	506	32,130	31,730	0.9876

State Auditor's Reports, Oversight Evaluations and Missouri Sunset Act Reports

Program or Division Name	Type of Report	Date Issued	Website
Public Defender Commission	Audit	12/7/2004	http://auditor.mo.gov/press/2004-94.pdf

State Public Defender

DECISION ITEM RANKING

Budgeting Unit Decision Item Fund	Rank	FY 2012 DEPT REQ DOLLAR	FY 2012 DEPT REQ FTE	FY 2012 GOV REC DOLLAR	FY 2012 GOV REC FTE	CUMULATIVE TOTAL DOLLARS	FTE
OFFICE OF THE DIRECTOR							
CORE	001						
GENERAL REVENUE		32,149,041	585.13	32,149,041	585.13	32,149,041	585.13
TOTAL		32,149,041	585.13	32,149,041	585.13		
GRANTS							
CORE	001						
PUBLIC DEFENDER-FEDERAL & OTHR		125,000	0.00	125,000	0.00	32,274,041	585.13
TOTAL		125,000	0.00	125,000	0.00		
LEGAL DEFENSE & DEFENDER FUND							
CORE	001						
LEGAL DEFENSE AND DEFENDER		2,980,263	2.00	2,980,263	2.00	35,254,304	587.13
TOTAL		2,980,263	2.00	2,980,263	2.00		
EXTRAORDINARY EXPENSE/CONFLIC							
CORE	001						
GENERAL REVENUE		2,558,059	0.00	2,558,059	0.00	37,812,363	587.13
TOTAL		2,558,059	0.00	2,558,059	0.00		
DEBT OFFSET ESCROW FUND							
CORE	001						
DEBT OFFSET ESCROW		350,000	0.00	350,000	0.00	38,162,363	587.13
TOTAL		350,000	0.00	350,000	0.00		
OFFICE OF THE DIRECTOR							
Cost to Continue Trial - 1151001	005						
GENERAL REVENUE		2,281,876	50.00	0	0.00	38,162,363	587.13
TOTAL		2,281,876	50.00	0	0.00		
Cost to Continue Appellate/PCR - 1151002	005						
GENERAL REVENUE		453,021	9.50	0	0.00	38,162,363	587.13
TOTAL		453,021	9.50	0	0.00		
FY12 Trial Caseload Crisis - 1151003	005						
GENERAL REVENUE		2,477,416	50.00	0	0.00	38,162,363	587.13
TOTAL		2,477,416	50.00	0	0.00		
FY12 Appellate/PCR Caseload - 1151004	005						

State Public Defender

DECISION ITEM RANKING

Budgeting Unit			FY 2012	FY 2012	FY 2012	FY 2012		
Decision Item	Rank		DEPT REQ	DEPT REQ	GOV REC	GOV REC	CUMULATIVE TOTAL	
Fund			DOLLAR	FTE	DOLLAR	FTE	DOLLARS	FTE
OFFICE OF THE DIRECTOR								
FY12 Appellate/PCR Caseload - 1151004	005							
GENERAL REVENUE			497,481	9.50	0	0.00	38,162,363	587.13
TOTAL			497,481	9.50	0	0.00		
Non-Lawyer Staff - PD Offices - 1151005	005							
GENERAL REVENUE			7,348,833	192.25	0	0.00	38,162,363	587.13
TOTAL			7,348,833	192.25	0	0.00		
Office Space Requirements - 1151006	005							
GENERAL REVENUE			2,196,118	0.00	0	0.00	38,162,363	587.13
TOTAL			2,196,118	0.00	0	0.00		
GRAND TOTAL			\$53,417,108	898.38	\$38,162,363	587.13		

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State Public Defender

DECISION ITEM SUMMARY

Budget Unit								
Decision Item	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Budget Object Summary	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Fund	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
OFFICE OF THE DIRECTOR								
CORE								
PERSONAL SERVICES								
GENERAL REVENUE	26,712,726	561.51	27,343,779	570.13	27,729,933	585.13	27,729,933	585.13
TOTAL - PS	26,712,726	561.51	27,343,779	570.13	27,729,933	585.13	27,729,933	585.13
EXPENSE & EQUIPMENT								
GENERAL REVENUE	4,936,313	0.00	4,805,262	0.00	4,419,108	0.00	4,419,108	0.00
TOTAL - EE	4,936,313	0.00	4,805,262	0.00	4,419,108	0.00	4,419,108	0.00
TOTAL	31,649,039	561.51	32,149,041	570.13	32,149,041	585.13	32,149,041	585.13
Cost to Continue Trial - 1151001								
PERSONAL SERVICES								
GENERAL REVENUE	0	0.00	0	0.00	1,951,776	50.00	0	0.00
TOTAL - PS	0	0.00	0	0.00	1,951,776	50.00	0	0.00
EXPENSE & EQUIPMENT								
GENERAL REVENUE	0	0.00	0	0.00	330,100	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	330,100	0.00	0	0.00
TOTAL	0	0.00	0	0.00	2,281,876	50.00	0	0.00
Cost to Continue Appellate/PCR - 1151002								
PERSONAL SERVICES								
GENERAL REVENUE	0	0.00	0	0.00	372,096	9.50	0	0.00
TOTAL - PS	0	0.00	0	0.00	372,096	9.50	0	0.00
EXPENSE & EQUIPMENT								
GENERAL REVENUE	0	0.00	0	0.00	80,925	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	80,925	0.00	0	0.00
TOTAL	0	0.00	0	0.00	453,021	9.50	0	0.00
FY12 Trial Caseload Crisis - 1151003								
PERSONAL SERVICES								
GENERAL REVENUE	0	0.00	0	0.00	1,951,776	50.00	0	0.00
TOTAL - PS	0	0.00	0	0.00	1,951,776	50.00	0	0.00

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State Public Defender

DECISION ITEM SUMMARY

Budget Unit								
Decision Item	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Budget Object Summary	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Fund	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
OFFICE OF THE DIRECTOR								
FY12 Trial Caseload Crisis - 1151003								
EXPENSE & EQUIPMENT								
GENERAL REVENUE	0	0.00	0	0.00	525,640	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	525,640	0.00	0	0.00
TOTAL	0	0.00	0	0.00	2,477,416	50.00	0	0.00
FY12 Appellate/PCR Caseload - 1151004								
PERSONAL SERVICES								
GENERAL REVENUE	0	0.00	0	0.00	372,096	9.50	0	0.00
TOTAL - PS	0	0.00	0	0.00	372,096	9.50	0	0.00
EXPENSE & EQUIPMENT								
GENERAL REVENUE	0	0.00	0	0.00	125,385	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	125,385	0.00	0	0.00
TOTAL	0	0.00	0	0.00	497,481	9.50	0	0.00
Non-Lawyer Staff - PD Offices - 1151005								
PERSONAL SERVICES								
GENERAL REVENUE	0	0.00	0	0.00	5,428,407	192.25	0	0.00
TOTAL - PS	0	0.00	0	0.00	5,428,407	192.25	0	0.00
EXPENSE & EQUIPMENT								
GENERAL REVENUE	0	0.00	0	0.00	1,920,426	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	1,920,426	0.00	0	0.00
TOTAL	0	0.00	0	0.00	7,348,833	192.25	0	0.00
Office Space Requirements - 1151006								
EXPENSE & EQUIPMENT								
GENERAL REVENUE	0	0.00	0	0.00	2,196,118	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	2,196,118	0.00	0	0.00
TOTAL	0	0.00	0	0.00	2,196,118	0.00	0	0.00
GRAND TOTAL	\$31,649,039	561.51	\$32,149,041	570.13	\$47,403,786	896.38	\$32,149,041	585.13

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CORE DECISION ITEM

Department:	State Public Defender	Budget Unit	115151C
Division:	Public Defender		
Core:	Legal Service Core Request		

1. CORE FINANCIAL SUMMARY

	FY 2012 Budget Request			
	GR	Federal	Other	Total
PS	27,729,933	0	0	27,729,933
EE	4,419,108	0	0	4,419,108
PSD	0	0	0	0
TRF	0	0	0	0
Total	32,149,041	0	0	32,149,041
FTE	585.13	0.00	0.00	585.13

Est. Fringe	15,431,708	0	0	15,431,708
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

	FY 2012 Governor's Recommendation			
	GR	Federal	Other	Total
PS	27,729,933	0	0	27,729,933
EE	4,419,108	0	0	4,419,108
PSD	0	0	0	0
TRF	0	0	0	0
Total	32,149,041	0	0	32,149,041
FTE	585.13	0.00	0.00	585.13

Est. Fringe	15,431,708	0	0	15,431,708
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

2. CORE DESCRIPTION

The Missouri State Public Defender System [MSPD] is a statewide system, providing direct representation to over 98% of the indigent defendants accused of state crimes in Missouri's trial, appellate, and Supreme courts. It is an independent department of state government, located within, but not supervised by, the judicial branch. Instead, it is governed by a seven-member Public Defender Commission, each of whom is appointed by the governor. This decision item includes funding for the the assistant public defenders and their support staff throughout the state and central administrative staff.

CORE DECISION ITEM

Department: State Public Defender	Budget Unit 15141C
Division: Public Defender	
Core: Legal Defense & Defender Core Request	

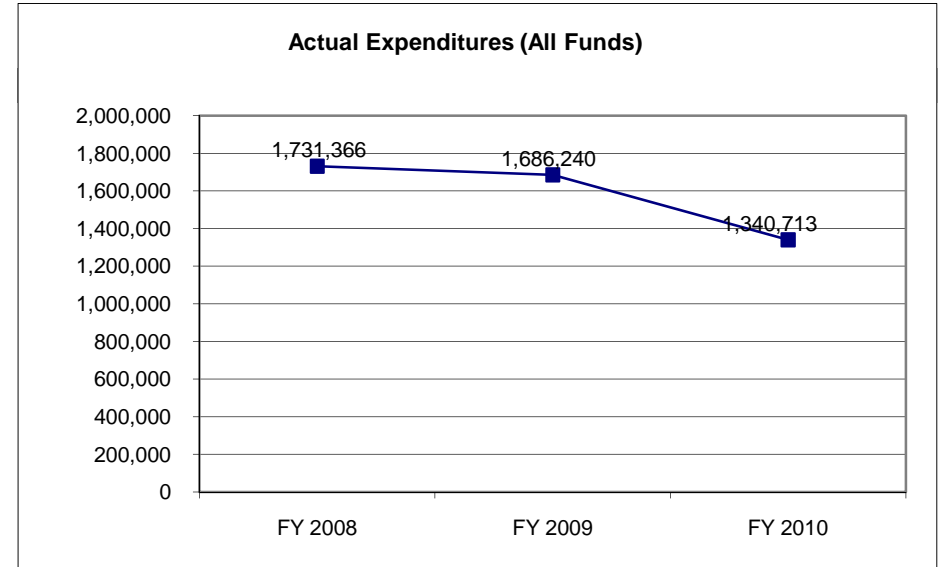
3. PROGRAM LISTING (list programs included in this core funding)

Training of all employees within the State Public Defender System is an important part of the day to day operation. Examples of system training provided would include:

Trial Skills Workshop Advanced Trial Skills Training New Attorney Training New Employee Training New Defender Workshop Missouri Association of Criminal Defense Lawyers	Appellate Record Preservation National Association of Criminal Defense Attorneys Life in the Balance (Death Penalty) Computer Training Defender Management
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4. FINANCIAL HISTORY

	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Current Yr.
Appropriation (All Funds)	2,976,491	2,980,263	2,980,263	2,980,263
Less Reverted (All Funds)	0	0	0	N/A
Budget Authority (All Funds)	2,976,491	2,980,263	2,980,263	N/A
Actual Expenditures (All Funds)	1,731,366	1,686,240	1,340,713	N/A
Unexpended (All Funds)	1,245,125	1,294,023	1,639,550	N/A
Unexpended, by Fund:				
General Revenue	0	0	0	N/A
Federal	0	0	0	N/A
Other	0	0	0	N/A



FLEXIBILITY REQUEST FORM

BUDGET UNIT NUMBER: 1151000	DEPARTMENT: Office of the State Public Defender
BUDGET UNIT NAME: Public Defender Legal Services	DIVISION: Legal Services
1. Provide the amount by fund of personal service flexibility and the amount by fund of expense and equipment flexibility you are requesting in dollar and percentage terms and explain why the flexibility is needed. If flexibility is being requested among divisions, provide the amount by fund of flexibility you are requesting in dollar and percentage terms and explain why the flexibility is needed.	
DEPARTMENT REQUEST	
<div style="border: 1px solid black; padding: 10px; min-height: 150px;"> <p>The Office of the State Public Defender is requesting full flexibility in our legal services appropriations. (Appropriations 0911 and 0912). Due to high turnover of attorney positions, it is frequently necessary to transfer cases from state employees (Appropriation 0911) to private counsel who can be compensated from appropriation 0912.</p> <p>It is also necessary to transfer dollars from the Personal Service Appropriation to the Expense and Equipment Appropriation to cover routine office expenses such as travel, postage and equipment maintenance.</p> </div>	
2. Estimate how much flexibility will be used for the budget year. How much flexibility was used in the Prior Year Budget and the Current Year Budget? Please specify the amount.	
PRIOR YEAR ACTUAL AMOUNT OF FLEXIBILITY USED	CURRENT YEAR ESTIMATED AMOUNT OF FLEXIBILITY THAT WILL BE USED
\$631,053	\$750,000
BUDGET REQUEST ESTIMATED AMOUNT OF FLEXIBILITY THAT WILL BE USED	
\$750,000	
3. Please explain how flexibility was used in the prior and/or current years.	
PRIOR YEAR EXPLAIN ACTUAL USE	CURRENT YEAR EXPLAIN PLANNED USE
<div style="border: 1px solid black; padding: 10px; min-height: 60px;"> <p>Transferred from Personal Service to Expense & Equipment to meet operating costs.</p> </div>	<div style="border: 1px solid black; padding: 10px; min-height: 60px;"> <p>Transferred from Personal Service to Expense & Equipment to meet operating costs and to hire private counsel to provide representation due to excessive caseloads.</p> </div>

State Public Defender

DECISION ITEM DETAIL

Budget Unit	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Decision Item	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
OFFICE OF THE DIRECTOR								
CORE								
TEMPORARY EMPLOYEE	28,063	1.10	0	0.00	0	0.00	0	0.00
SECRETARY	2,761,733	107.18	2,894,486	111.25	3,071,481	119.75	3,071,481	119.75
COMPUTER INFO. SPECIALIST	304,371	6.25	297,595	6.25	268,824	5.25	268,824	5.25
INVESTIGATOR	1,919,783	55.07	1,954,738	54.63	2,082,281	60.13	2,082,281	60.13
PARALEGAL	193,993	6.04	183,609	5.50	204,932	6.50	204,932	6.50
MITIGATION SPECIALIST	257,736	6.81	266,941	7.00	267,345	7.00	267,345	7.00
LAW CLERK	858	0.03	0	0.00	0	0.00	0	0.00
ASSISTANT PUBLIC DEFENDER	16,983,589	320.13	17,284,696	324.50	17,443,454	325.50	17,443,454	325.50
DISTRICT DEFENDER	2,994,595	41.78	3,183,756	44.00	3,086,988	43.00	3,086,988	43.00
DIVISION DIRECTOR	631,752	6.00	638,019	6.00	631,752	6.00	631,752	6.00
PROGRAM TECHNICIAN	178,570	5.14	176,805	5.00	213,108	6.00	213,108	6.00
PROGRAM MANAGER	339,288	5.00	342,654	5.00	339,288	5.00	339,288	5.00
DIRECTOR	118,395	0.98	120,480	1.00	120,480	1.00	120,480	1.00
TOTAL - PS	26,712,726	561.51	27,343,779	570.13	27,729,933	585.13	27,729,933	585.13
TRAVEL, IN-STATE	1,002,464	0.00	1,000,000	0.00	978,900	0.00	978,900	0.00
TRAVEL, OUT-OF-STATE	4,341	0.00	6,500	0.00	3,500	0.00	3,500	0.00
FUEL & UTILITIES	55,500	0.00	40,000	0.00	50,000	0.00	50,000	0.00
SUPPLIES	332,643	0.00	295,000	0.00	315,000	0.00	315,000	0.00
PROFESSIONAL DEVELOPMENT	113,339	0.00	110,000	0.00	115,000	0.00	115,000	0.00
COMMUNICATION SERV & SUPP	153,880	0.00	175,000	0.00	150,000	0.00	150,000	0.00
PROFESSIONAL SERVICES	1,991,422	0.00	2,228,262	0.00	1,680,938	0.00	1,680,938	0.00
HOUSEKEEPING & JANITORIAL SERV	92,994	0.00	85,000	0.00	90,000	0.00	90,000	0.00
M&R SERVICES	283,270	0.00	180,000	0.00	280,000	0.00	280,000	0.00
COMPUTER EQUIPMENT	0	0.00	500	0.00	770	0.00	770	0.00
OFFICE EQUIPMENT	126,159	0.00	4,500	0.00	4,500	0.00	4,500	0.00
OTHER EQUIPMENT	0	0.00	500	0.00	500	0.00	500	0.00
BUILDING LEASE PAYMENTS	745,414	0.00	645,000	0.00	715,000	0.00	715,000	0.00
EQUIPMENT RENTALS & LEASES	11,558	0.00	10,000	0.00	10,000	0.00	10,000	0.00
MISCELLANEOUS EXPENSES	23,329	0.00	25,000	0.00	25,000	0.00	25,000	0.00
TOTAL - EE	4,936,313	0.00	4,805,262	0.00	4,419,108	0.00	4,419,108	0.00
GRAND TOTAL	\$31,649,039	561.51	\$32,149,041	570.13	\$32,149,041	585.13	\$32,149,041	585.13
GENERAL REVENUE	\$31,649,039	561.51	\$32,149,041	570.13	\$32,149,041	585.13	\$32,149,041	585.13
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00

NEW DECISION ITEM

RANK: 5 OF 5

Department: State Public Defender	Budget Unit <u>15111C</u>
Division: Public Defender - Legal Services	
DI Name: Cost to Continue 2011 Supplemental	DI# 1151001

1. AMOUNT OF REQUEST

FY 2012 Budget Request				
	GR	Federal	Other	Total
PS	1,951,776	0	0	1,951,776
EE	330,100	0	0	330,100
PSD	0	0	0	0
TRF	0	0	0	0
Total	2,281,876	0	0	2,281,876
FTE	50.00	0.00	0.00	50.00

Est. Fringe	1,086,163	0	0	1,086,163
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

FY 2012 Governor's Recommendation				
	GR	Federal	Other	Total
PS	0	0	0	0
EE	0	0	0	0
PSD	0	0	0	0
TRF	0	0	0	0
Total	0	0	0	0
FTE	0.00	0.00	0.00	0.00

Est. Fringe	0	0	0	0
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

2. THIS REQUEST CAN BE CATEGORIZED AS:

<input type="checkbox"/> New Legislation	<input type="checkbox"/> New Program	<input type="checkbox"/> Fund Switch
<input type="checkbox"/> Federal Mandate	<input type="checkbox"/> Program Expansion	<input type="checkbox"/> Cost to Continue
<input type="checkbox"/> GR Pick-Up	<input type="checkbox"/> Space Request	<input type="checkbox"/> Equipment Replacement
<input type="checkbox"/> Pay Plan	<input checked="" type="checkbox"/> Other: CONSTITUTIONALLY MANDATED	

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Cost to Continue 2011 Supplemental	DI#1151001	

3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.

In the current economic situation, there is no question that all of government must tighten its belt and trim the 'extras'. However, unlike most other departments of state government, Missouri's Public Defenders perform only one function and the level of performance is constitutionally mandated by both the U.S. and Missouri Constitutions. When that constitutional mandate is ignored, innocent people go to jail, guilty ones go free, and justice becomes anything but.

In the last five years, four separate studies have been done of the Missouri State Public Defender System and all have reached the same conclusion: Missouri's Public Defender System "is operating in crisis mode" and "the probability that public defenders are failing to provide effective assistance of counsel and are violating their ethical obligations to their clients increases every day." The last three Chief Justices have warned of this crisis in their State of the Judiciary speeches to the legislature and the U.S. Attorney General, Eric Holder, specifically named Missouri in a speech given in New York last year as an example of a broken indigent defense system. Something has to give.

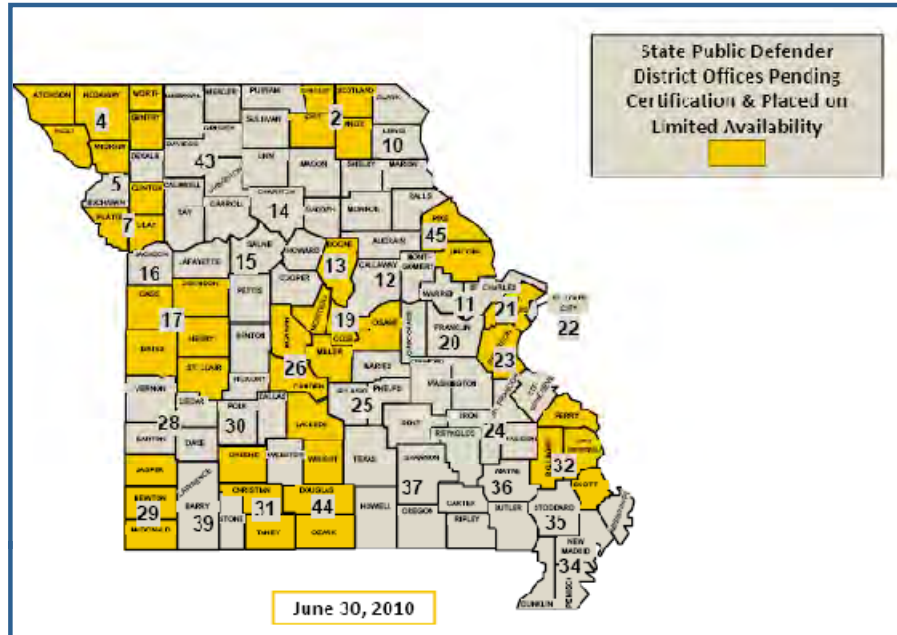
When there are not sufficient resources to adequately staff the public defender system to handle all the eligible cases, public defenders have no choice but to limit the cases they accept. Anything else forces them to violate their ethical and professional responsibilities, exposing them to malpractice liability and professional discipline against their licenses to practice law.

As a result, in accordance with Public Defender Commission rules and the Missouri Supreme Court opinion issued in December, 2009, both described further below, two public defender offices began turning away cases above their maximum capacity in July, 2010. Fourteen other offices have given formal notice that they are at risk of having to do the same if the courts in their jurisdictions are unable to divert some of the less serious cases before they reaches the public defender office. In all, 22 judicial circuits and 53 counties are impacted, with more expected to follow.

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Cost to Continue 2011 Supplemental	DI#1151001	



The current statutory scheme requires Missouri's public defenders to defend not only those charged with serious offenses such as rape, murder, assault, and robbery but also a host of nonviolent, minor offenses such as driving while revoked, truancy, and possession of drug paraphernalia; and a variety of debt collection offenses such as criminal nonsupport, bad checks, and failure to return rental property. In this economic climate, adequately staffing the public defender system to defend all of these cases is as far beyond the state's ability to fund as the caseload itself is above the public defender system's ability to handle. As a result, while the enclosed budget request shows the full cost of fixing the problem of indigent defense in Missouri, it also proposes a four-year phase-in of that cost. This will not solve the crisis in Missouri's public defender system. If it is not possible to staff the public defender to handle all the cases coming its way, it only makes sense to prioritize public defender resources to handle the most serious criminal offenses and take the minor matters off the list of responsibilities. We strongly encourage a serious exploration of ways to do that. Tight budget times call for creative approaches and a different way of thinking by all.

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Cost to Continue 2011 Supplemental	DI#1151001	

4. DESCRIBE THE DETAILED ASSUMPTIONS USED TO DERIVE THE SPECIFIC REQUESTED AMOUNT. (How did you determine that the requested number of FTE were appropriate? From what source or standard did you derive the requested levels of funding? Were alternatives such as outsourcing or automation considered? If based on new legislation, does request tie to TAFP fiscal note? If not, explain why. Detail which portions of the request are one-times and how those amounts were calculated.)

**Missouri Public Defender Commission Caseload Crisis Protocol:
NATIONAL CASELOAD STANDARDS**

In May of 2006, the American Bar Association issued an ethical advisory opinion warning against ethical violations caused by excessive defender caseloads and highlighting the professional responsibility of both defenders and courts to take steps to avoid such ethical violations. That opinion cited the National Advisory Counsel caseload standards as guidance for defenders and courts in determining when public defenders are carrying excessive caseloads. See, *ABA Formal Opinion 06-441: Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseload Interfere with Competent and Diligent Representation*, May 13, 2006.

In November, 2007, the Missouri Public Defender Commission adopted a new agency rule and caseload crisis protocol (18 CSR 10-4.010). The two together establish a procedure for determining the maximum caseload each public defender office can reasonably and ethically be expected to handle. When the total workload hours of the cases assigned to the office have exceeded the maximum allowable workloads for that office for three consecutive months, the Rule authorizes the MSPD Director to place a district on 'limited availability status' and begin turning away excess cases. The rule, as originally adopted, indicated that the offices would do this by identifying certain category of cases -- minor misdemeanors, probation revocation cases, etc -- that would no longer be eligible for defender services in order to triage attorney time toward the more serious offenses. The rule went into effect in August, 2008 and not long thereafter, the Commission's authority to set maximum caseloads was challenged.. (This litigation was pending at the time Senator Jack Goodman sponsored SB 37 during the 2009 legislative session, clarifying the statutory language to leave no doubt that the legislature did in fact intend to give the Commission such authority. Although that bill was vetoed by the Governor, the Missouri Supreme Court wound up ruling that the Commission did in fact already have that authority under the current statutory language without the changes proposed by SB 37.)

The issue went to the Missouri Supreme Court and in December, 2009, the Court issued its opinion in State ex. rel. **Missouri Public Defender Commission v. Pratt**, 298 S.W.3d 870, 877 (Mo. banc 2009). In that ruling, the Court acknowledged the Commission's authority to set maximum caseloads but ruled that it did not have the authority to unilaterally triage the caseload by excluding particular categories of cases. Under the opinion, the only way in which a public defender office can refuse excess cases is to simply close the doors to all new cases, regardless of case type or confinement status of the accused. That revised rule is the one under which MSPD is now operating.

NEW DECISION ITEM

RANK: 5 OF 5

Department: State Public Defender
Division: Public Defender - Legal Services
DI Name: Cost to Continue 2011 Supplemental **DI#**1151001

Budget Unit 15111C

In developing the maximum allowable caseload standard for each office, the Public Defender Commission looked to national caseload standards. The National Advisory Counsel of the U.S. Department of Justice Task Force on the Courts developed maximum recommended caseload standards for public defenders in 1972. Those standards have formed the basis for most public defender caseload standards presently in existence around the country. (See, Compendium of Standards for Indigent Defense System compiled by the Institute for Law and Justice under a contract with the Bureau of Justice Assistance, December, 2000.) The NAC caseload standards are set out below, rounded to the nearest whole number:

NAC CASELOAD STANDARDS	
Non-Capital Homicides	12 cases per year or 1 new case per month
Felonies	150 cases per year or 12.5 new cases per month
Misdemeanors	400 cases per year or 33 new cases per month
Juvenile	200 cases per year or 17 new cases per month
Appeals	25 cases per year or 2 new cases per month

The NAC standards did not address post-conviction matters, sexually-violent predator commitment cases, or capital cases. They also did not allot any attorney time for supervisory, administrative, or training tasks, account for travel time in rural vs. urban jurisdictions, or consider the availability or lack of support staff as factors in determining the time lawyers would have available to spend preparing their cases.

The ABA recognized this deficiency in its May, 2006 ethical advisory opinion, pointing out, **“Although [national] standards may be considered, they are not the sole factor in determining if a workload is excessive. Such a determination depends not only on the number of cases, but also on such factors as case complexity, the availability of support services, the lawyer’s experience and ability, and the lawyer’s nonrepresentational duties.”** ABA Formal Opinion 06-441, p 4. [Emphasis added.]

NEW DECISION ITEM

RANK: 5 OF 5

Department: State Public Defender	Budget Unit <u>15111C</u>
Division: Public Defender - Legal Services	
DI Name: Cost to Continue 2011 Supplemental	DI# 1151001

MSPD MODIFICATION OF NAC STANDARDS:

The MSPD caseload crisis protocol follows the ABA opinion in using the NAC standard as its foundation, but builds upon it in order to address the omissions described above and the particular circumstances of Missouri Public Defender Offices. These modifications, which are set out below, will be subject to annual review and adjustment as necessary.

Case Weights = Hours per Case

01) Measuring case hours, rather than case numbers, allows us to both assign weights to cases and more easily add into the equation attorney hours spent in essential, but non-case-related tasks. The caseload numbers of the NAC standard were therefore converted to hours per case type. The NAC standard assumed a standard 40 hour work week or 2080 attorney hours available over the course of a year. Dividing the total available hours by the maximum number of allowable cases per year, the NAC standard results in the following hours per case type (rounded to the nearest whole number):

NAC HOURS PER CASE TYPE	
Non-Capital Homicides	173 hours per case
Felonies	14 hours per case
Misdemeanors	5 hours per case
Juvenile	10 hours per case
Appeals	83 hours per case

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Cost to Continue 2011 Supplemental	DI#	1151001

02) The NAC standards do not distinguish between types of felony offenses. However, MSPD's internal workload study did make that distinction. (See Appendix B re MSPD Internal Workload Study) Not surprisingly, the results of that study indicated that sex offense cases take significantly more time to prepare and defend than drug and other felony cases under current Missouri law. For that reason, this standard modifies the NAC broad "Felony" offense category by dividing it into subcategories of Sex Offenses and Other Felony Offenses. The MSPD internal workload study showed that MSPD attorneys are currently -- even with existing case overloads -- spending an average of 31 hours per case on sex offense cases, so that number was used in lieu of the 14 hours per case for general felony cases.

MSPD MODIFIED NAC HOURS PER CASE TYPE	
Non-Capital Homicides	173 hours per case
Sex Offenses - A & B	31 hours per case
Other Felonies Offenses	14 hours per case
Misdemeanors	5 hours per case
Juvenile	10 hours per case
Appeals	83 hours per case
29.15 Cases	62 hours per case
24.035 Cases	21 hours per case
Probation Violations	5 hours per case

03) The NAC standards do not address probation violation cases. MSPD deems each of those cases the same as a misdemeanor case for purposes of the protocol, regardless of whether the underlying case was a felony or a misdemeanor.

04) The NAC standards do not address post-conviction cases. MSPD currently weighs post-trial 29.15 motions and appeals as equal to three-fourths of a direct appeal and post-plea 24.035 motions and appeals as equal to one-fourth of a direct appeal for purposes

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Cost to Continue 2011 Supplemental	DI#1151001	

05) The NAC standards do not address capital or sexually violent predator cases. MSPD limits each of its capital attorneys to no more than six open capital cases. This is based upon a Florida study in which attorneys defending death penalty cases in the manner set forth by the ABA death penalty standards tracked their hours per case and determined that an attorney could effectively handle no more than 3 capital cases per year per attorney. Since each of MSPD's capital cases is assigned two attorneys who divide the work on the case between them, MSPD has raised that caseload standard to 6 open capital cases per attorney. Because of the stricter time standards in post conviction, the caseloads of capital PCR attorneys are kept at around 5 open cases per attorney. Sexually violent predator caseloads are currently capped at 8 open cases per attorney at a time. MSPD usually contracts cases in excess of these limits to private counsel.

Non-Case-Related Work Hours:

As the ABA Ethical Advisory Opinion recognized, every attorney has non-case-related responsibilities that have to be considered when determining whether an attorney's workload has become untenable. MSPD has adjusted for these by adding each of the following categories into the total workload calculation when determining case overload under this protocol.

1) ANNUAL AND HOLIDAY LEAVE: MSPD is a state agency and required by state law to permit its employees a set amount of annual and holiday leave each year. While a number of its attorneys work those days of their own volition, MSPD cannot require its attorneys to give up these days and therefore must build them into any determination of how many attorney hours are available to handle the caseload. While hours of annual leave increase with seniority, this protocol utilizes the minimum annual leave accrual of ten hours per month or 120 hours per year. In addition, the State of Missouri recognizes 12 state holidays, which translate into 96 holiday hours per year for a total of 216 hours annual and holiday leave, which must be deducted from the total number of available attorney hours.

2) SICK LEAVE: MSPD is required to allocate to its employees a set amount of sick leave each month, although this leave may not be used without good cause. When sick leave is used by employees – particularly for extended periods of FMLA leave – it reduces the number of attorney hours available to handle cases. To account for this leave without overestimating its impact, this protocol draws upon the experience of the preceding year in anticipating how much sick leave is likely to be utilized. In 2010, 2.68% of total attorney hours was used for sick leave. That percentage is therefore subtracted from the available attorney hours for handling caseload.

3) NON-CASE-RELATED TASKS: The practice of law in MSPD inevitably includes significant amounts of time taken up with non-case-related matters, some inherent in the practice of law such as continuing legal education and time spent waiting in court for cases to be called or at the jail waiting for clients to be produced. Of greater significance is the time MSPD attorneys spend doing primarily administrative tasks such as copying discovery, updating court dates, etc. because of the critical shortage of support staff within our offices. The average amount of time spent by MSPD attorneys on these tasks was determined through the MSPD workload study in which employees were required to track their time, by category of task, in fifteen-minute increments. That study revealed that 13.7% of total available attorney hours were spent on such

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Cost to Continue 2011 Supplemental	DI#1151001	

non-case-related tasks. Those hours must be deducted from the hours available for handling cases. If the number of support staff were to be increased, the number of attorney hours available for case work and the overall numbers of cases the office could handle before reaching critical proportions would likewise increase. For the meantime, however, the weighted workload caps used in the caseload crisis protocol must continue to account for the shortage of support staff and count those hours as part of the attorney workloads.

4) TRAVEL TIME: The average amount of attorney time spent in travel varies with the location and coverage area of the office. This is estimated by taking the total number of miles traveled by each office during the preceding year and translating that into travel time using an average of 45 miles per hour -- an average of highway, two-lane and busy, urban roadway travel times.

5) MANAGEMENT / SUPERVISORY TIME: The amount of time needed for management duties within a district office varies with the size of the office and the number of people supervised. MSPD's experience has shown that effective management and supervision within a district office require an average of 1.5 hours per week of supervisor time per employee supervised. E.g., in an office of 3 attorneys and 2 support staff, the District Defender should expect to spend an average of 7.5 hours per week [5 employees x 1.5 hours] on management and supervisory responsibilities. Because most of MSPD's District and Deputy District Defenders also carry caseloads and are included in the "available attorney hours" equation, the time they devote to their management / supervisory tasks is deducted from the total attorney hours available within that district office to handle caseload.

CALCULATION OF DISTRICT OFFICE WORKLOAD:

Attorney Hours Available for Case Work:

For purposes of the protocol and putting offices on "limited availability", caseloads are reviewed on a rolling 3 months. For the purposes of budgeting, the caseloads and staffing are reviewed using fiscal year numbers.

The annual available attorney hours used is 2340 hours or 45 hours per week per attorney. To determine the number of those hours available for actually handling cases, we must deduct the hours used up in non-case-related matters as set out above. Averages (rounded to the nearest half hour) that apply statewide can be deducted up front, as follows:

2,340.00	ANNUAL AVAILABLE HOURS PER ATTORNEY
320.50	AVERAGE NON-CASE-RELATED TASKS [13.7% of 2340]
<u>278.62</u>	AVERAGE HOLIDAYS, ANNUAL LEAVE AND SICK LEAVE
1,740.88	AVERAGE AVAILABLE HOURS PER ATTORNEY PER YEAR

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Cost to Continue 2011 Supplemental	DI#	1151001

Management and travel time still have to be deducted, but because these vary with the number of employees and geographic size of each district, they must be calculated at the local district level, as follows:

Management / Supervisory Hours: To determine the average management / supervisory hours within a given office over a fiscal year, multiply the number of employees to be supervised by 78 (1.5 hours x 52 weeks). For example, a District Defender who supervised 15 lawyers and 8 support staff, for a total of 23 employees should anticipate 1,794 hours of management time in that year. Because all supervision is provided by one or more attorneys serving as the District and/or Deputy District Defender, these hours reduce the available attorney hours to handle cases within that District, as shown in the example below.

Travel Time: The average number of attorney miles traveled over a fiscal year is based upon the number of attorney miles traveled in that district during the previous fiscal year. Miles are converted to hours using an average of 45 miles per hour. Assume our sample district traveled 5000 attorney miles last fiscal year. That translates into 111 attorney hours spent in travel within that district. Those hours are not available for the handling of cases and must be deducted from the district's available attorney hours, as shown in the example.

EXAMPLE:

26,113.20	Total available attorney hours per year (1,752 x 15 lawyers) (District Defender + 15 Assistant Public Defenders)
1,794.00	Management hours required (15 lawyers + 8 staff = 23 x 78 hours per yr)
<u>111.00</u>	Average attorney travel hours for district over the fiscal year
24,208.20	DISTRICT OFFICE MAXIMUM ALLOWABLE CASELOAD STANDARD

The maximum allowable caseload standard number is the maximum number of attorney hours available to handle cases within that district office over the fiscal year. To determine if an office is exceeding that standard, we must then compare this number to the hours required to handle the caseload that office has been assigned during the fiscal year under examination.

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Cost to Continue 2011 Supplemental	DI#1151001	

Hours Required to Handle Office Caseload

We determine the number of cases assigned to that office in each category of case type – e.g. how many murders, how many sex cases, how many felony drug cases, etc. during the preceding fiscal year. The number of cases in each category is then multiplied by the number of hours set forth in the Missouri State Public Defender Modified NAC table shown previously, and then totaled to determine the total number of attorney hours *needed* to handle the caseload assigned to that district for the three-month interval examined.

Note: This protocol calculates attorney hours based upon new cases assigned. It does not count hours being spent now on cases that were assigned four or five months ago that remain open. This is balanced out by counting the total number of hours required to handle each new case assigned as falling entirely within the fiscal year interval under examination even though, in reality, those hours – like the current open cases -- will be spread over several months, perhaps years, to come. The one balances out the other and the result is a reasonably accurate assessment of average actual workload. Cases disposed via Withdrawal, Conflict, or Assignment are subtracted from the protocol as minimal work is done on these disposition types.

TRIAL DIVISION FOUR YEAR PHASE IN

Due to the severe nature of this decision item and the costs involved to resolve this crisis, the Missouri State Public Defender is requesting that the funding to alleviate the crisis be phased in. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. An additional one-fourth of the costs will be requested in FY2012. Additional funding of the Missouri State Public Defender Protocol will be requested in future years and will be based on future caseloads.

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Cost to Continue 2011 Supplemental	DI#1151001	

5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.

	Dept Req GR DOLLARS	Dept Req GR FTE	Dept Req FED DOLLARS	Dept Req FED FTE	Dept Req OTHER DOLLARS	Dept Req OTHER FTE	Dept Req TOTAL DOLLARS	Dept Req TOTAL FTE	Dept Req One-Time DOLLARS
Budget Object Class/Job Class									
Assistant Public Defender III - Range 30	1,276,704	26.0					1,276,704	26.0	
Investigator - Range 23	277,152	8.0					277,152	8.0	
Secretary - Range 12	190,368	8.0					190,368	8.0	
Legal Assistant - Range 15	207,552	8.0					207,552	8.0	
Total PS	1,951,776	50.0	0	0.0	0	0.0	1,951,776	50.0	0
Travel 140	245,100						245,100		
Supplies 190	25,000						25,000		
Communications 340	60,000						60,000		
Total EE	330,100		0		0		330,100		0
Program Distributions							0		
Total PSD	0		0		0		0		0
Transfers									
Total TRF	0		0		0		0		0
Grand Total	2,281,876	50.0	0	0.0	0	0.0	2,281,876	50.0	0

FY2010 ASSIGNED CASES - Trial Division & Contract Counsel					
Case Type		FY10 Trial Division Cases	FY10 Case Overload Contract Relief	Hours Required for Case Type	FY10 NAC Modified Required Hours
15	Murder 1st Degree	132	5	173	23,701
20	Other Homicide	153	3	173	26,988
30D	AB Felony Drug	3,260	76	14	46,704
30F	AB Felony Other	3,618	87	14	51,870
30X	AB Felony Sex	689	7	31	21,576
35D	CD Felony Drug	5,324	91	14	75,810
35F	CD Felony Other	20,353	323	14	289,464
35X	CD Felony Sex	364	4	31	11,408
45M	Misdemeanor	17,688	119	5	89,035
45T	Misdemeanor - Traffic	6,841	21	5	34,310
50N	Juvenile - Non Violent	1,339	1	10	13,400
50S	Juvenile - Status	258		10	2,580
50V	Juvenile - Violent	753	6	10	7,590
60	552 Release Petitions	33		14	462
65F	Probation Violation - Felony	14,171	39	5	71,050
65M	Probation Violation - Misd	5,877	14	5	29,455
75	Special Writ	4		83	332
80	Appeal - Misdemeanor	2		83	166
82	Appeal - Other	34		83	2,822
	Totals	80,893	796		
2340.00	Standard Work Hours (45 hrs. *52 wks)				
-62.62	Attorney Sick Leave			Case Hours	798,723
-216.00	Holidays and Annual Leave	Adjusted for Withdrawn & Conflicts			-138,506
-320.50	Non Case Related Hours (13.7%)			Travel Hours	32,343
1740.88	Available Attorney Case Hours			Management Hours	32,916
				Total Hours	725,476
		Attorneys Required (Total Hours/1740.88)			417
		Number of Current TD Attorneys			311
		Number of TD Attorneys Needed*			106

* Does not include CDU

Trial Division Protocol				
	Protocol	FY2011 Supplemental Start Date= April 1, 2011	FY2012 Cost to Continue FY2011 Supplemental	FY2012 New Decision Item
Cost Breakdown				
Personal Service				
Assistant Public Defender III - Range 30	106.00	26.00	26.00	26.00
\$49,104	\$5,205,024	\$319,176	\$1,276,704	\$1,276,704
Investigators - Range 23	35.00	8.00	8.00	8.00
\$34,644	\$1,212,540	\$69,288	\$277,152	\$277,152
Secretaries - Range 12	35.00	8.00	8.00	8.00
\$23,796	\$832,860	\$47,592	\$190,368	\$190,368
Legal Assistants - Range 15	35.00	8.00	8.00	8.00
\$25,944	<u>\$908,040</u>	<u>\$51,888</u>	<u>\$207,552</u>	<u>\$207,552</u>
Total Personal Service	\$8,158,464	\$487,944	\$1,951,776	\$1,951,776
Expense & Equipment				
One-time Purchases				
Attorney Package	106.00	26.00		26.00
\$2,950	\$312,700	\$76,700		\$76,700
Investigator Package	35.00	8.00		8.00
\$2,875	\$100,625	\$23,000		\$23,000
Legal Assistant Package	35.00	8.00		8.00
\$2,875	\$100,625	\$23,000		\$23,000
Secretary Package	35.00	8.00		8.00
\$9,105	<u>\$318,675</u>	<u>\$72,840</u>		<u>\$72,840</u>
Total One-Time Purchases	\$832,625	\$195,540		\$195,540
On-Going Costs				
Attorneys	106.00	26.00	26.00	26.00
\$7,850	\$832,100	\$51,025	\$204,100	\$204,100
Investigator	35.00	8.00	8.00	8.00
\$7,525	\$263,375	\$15,050	\$60,200	\$60,200
Legal Assistant	35.00	8.00	8.00	8.00
\$5,875	\$205,625	\$11,750	\$47,000	\$47,000
Secretary	35.00	8.00	8.00	8.00
\$2,350	<u>\$82,250</u>	<u>\$4,700</u>	<u>\$18,800</u>	<u>\$18,800</u>
Total Personnel Related On-Going Costs	\$1,383,350	\$82,525	\$330,100	\$330,100
Total Expense and Equipment	\$2,215,975	\$278,065	\$330,100	\$525,640
Total Decision Item Request	\$10,374,439	\$766,009	\$2,281,876	\$2,477,416

One Time Equipment Purchase

Attorney

Desk	\$540
Chair	\$175
Side Chair (2)	\$250
Bookcase	\$215
Portable Dictation Unit	\$105
File Cabinet (2)	\$225
Telephone	\$275
Personal Computer	\$950
PC Software	<u>\$215</u>
	\$2,950

Secretary

Desk	\$540
Chair	\$175
Side Chair (1)	\$125
File Cabinet (2)	\$225
Telephone	\$325
Personal Computer	\$950
PC Software	\$215
Printer/Copier/Fax	<u>\$6,550</u>
For Every 5 Employees	\$9,105

Investigator/Legal Assistant

Desk	\$540
Chair	\$175
Side Chair (2)	\$250
Camera	\$190
Portable Dictation Unit	\$105
File Cabinet (2)	\$225
Telephone	\$225
Personal Computer	\$950
PC Software	<u>\$215</u>
	\$2,875

Detail for Projections

On-Going Costs - Trial Division

Attorney

Travel @ \$512.50 per month	\$6,150
Office	\$500
Phone & Network Communications	<u>\$1,200</u>
	\$7,850

Secretary

Office	\$1,150
Phone & Network Communications	<u>\$1,200</u>
	\$2,350

Investigator

Travel @ \$512.50 per month	\$6,150
Office	\$175
Phone & Network Communications	<u>\$1,200</u>
	\$7,525

Legal Assistant

Travel @ \$375.00 per month	\$4,500
Office	\$175
Phone & Network Communications	<u>\$1,200</u>
	\$5,875

Staffing Ratios:

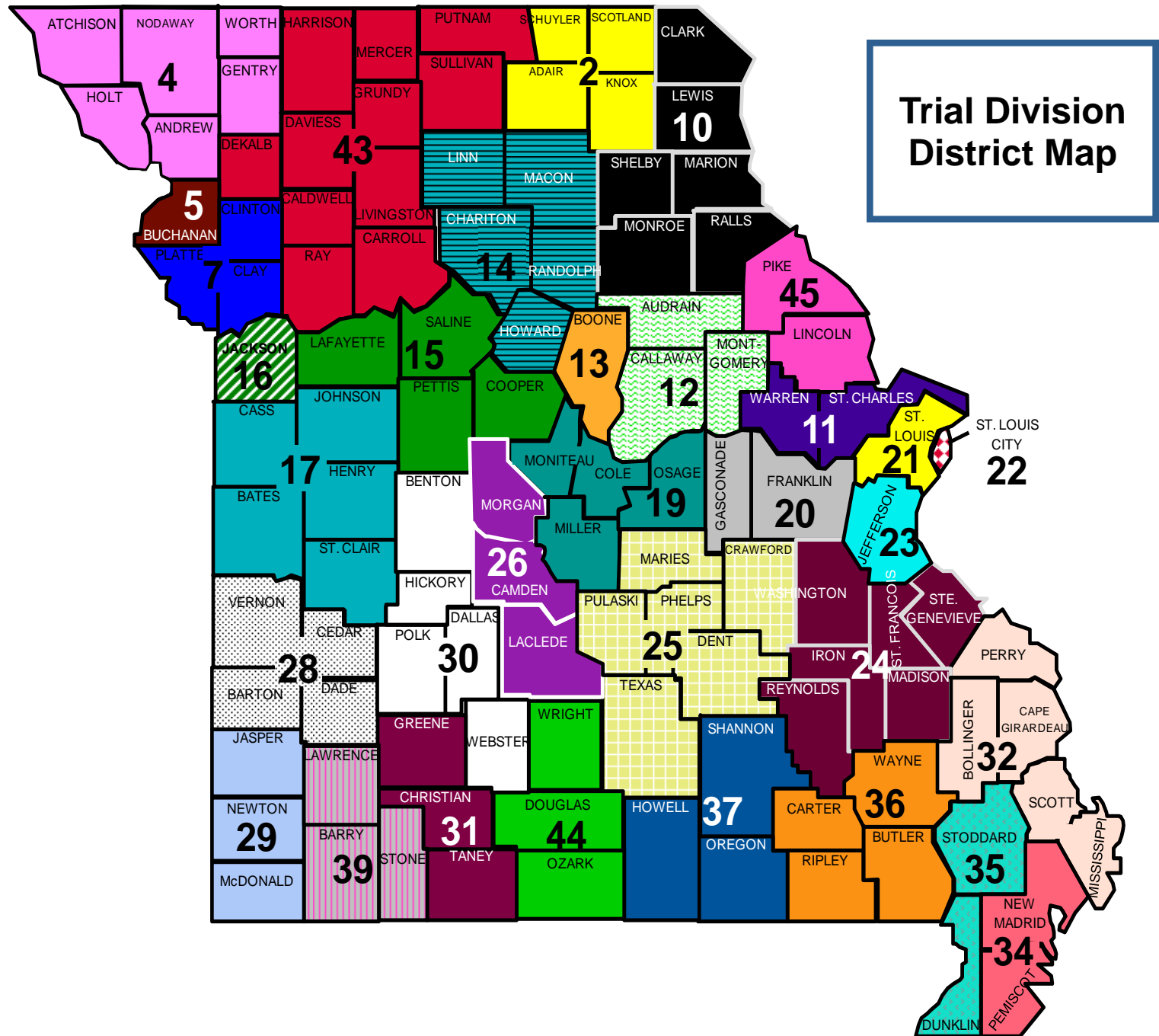
Requirements

Investigators	1 : 3.0 Attorneys
Secretaries	1 : 3.0 Attorneys
Legal Assistants	1 : 3.0 Attorneys

State Public Defender

DECISION ITEM DETAIL

Budget Unit	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Decision Item	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
OFFICE OF THE DIRECTOR								
Cost to Continue Trial - 1151001								
SECRETARY	0	0.00	0	0.00	397,920	16.00	0	0.00
INVESTIGATOR	0	0.00	0	0.00	277,152	8.00	0	0.00
ASSISTANT PUBLIC DEFENDER	0	0.00	0	0.00	1,276,704	26.00	0	0.00
TOTAL - PS	0	0.00	0	0.00	1,951,776	50.00	0	0.00
TRAVEL, IN-STATE	0	0.00	0	0.00	245,100	0.00	0	0.00
SUPPLIES	0	0.00	0	0.00	25,000	0.00	0	0.00
COMMUNICATION SERV & SUPP	0	0.00	0	0.00	60,000	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	330,100	0.00	0	0.00
GRAND TOTAL	\$0	0.00	\$0	0.00	\$2,281,876	50.00	\$0	0.00
GENERAL REVENUE	\$0	0.00	\$0	0.00	\$2,281,876	50.00		0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00



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NEW DECISION ITEM
RANK: 5 OF 5

Department: State Public Defender	Budget Unit: 15111C
Division: Public Defender - Legal Services	
DI Name: FY2012 Trial Division Caseload Crisis	DI# 1151003

1. AMOUNT OF REQUEST

FY 2012 Budget Request				
	GR	Federal	Other	Total
PS	1,951,776	0	0	1,951,776
EE	525,640	0	0	525,640
PSD	0	0	0	0
TRF	0	0	0	0
Total	2,477,416	0	0	2,477,416

FTE	50.00	0.00	0.00	50.00
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Est. Fringe	1,086,163	0	0	1,086,163
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

FY 2012 Governor's Recommendation				
	GR	Federal	Other	Total
PS	0	0	0	0
EE	0	0	0	0
PSD	0	0	0	0
TRF	0	0	0	0
Total	0	0	0	0

FTE	0.00	0.00	0.00	0.00
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Est. Fringe	0	0	0	0
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

2. THIS REQUEST CAN BE CATEGORIZED AS:

<input type="checkbox"/> New Legislation	<input type="checkbox"/> New Program	<input type="checkbox"/> Fund Switch
<input type="checkbox"/> Federal Mandate	<input type="checkbox"/> Program Expansion	<input type="checkbox"/> Cost to Continue
<input type="checkbox"/> GR Pick-Up	<input type="checkbox"/> Space Request	<input type="checkbox"/> Equipment Replacement
<input type="checkbox"/> Pay Plan	<input checked="" type="checkbox"/> Other: CONSTITUTIONALLY MANDATED	

3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.

TRIAL DIVISION FOUR YEAR PHASE IN -

Due to the severe nature of this issue and the costs involved to resolve Public Defender caseload crisis - the funding to alleviate the crisis has been requested in phases. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. The cost to continue the 2011 funding is this first priority in the 2012 Request. The second phase or the next twenty-five percent of the solution is requested as a new decision item in Fiscal Year 2012. The justification and explanation of decision items can be found in the "Cost to Continue" narrative.

NEW DECISION ITEM

RANK: 5 OF 5

Department: <u>State Public Defender</u>		Budget Unit <u>15111C</u>							
Division: <u>Public Defender - Legal Services</u>									
DI Name: <u>FY2012 Trial Division Caseload Crisis</u> DI# <u>1151003</u>									
5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.									
Budget Object Class/Job Class	Dept Req GR DOLLARS	Dept Req GR FTE	Dept Req FED DOLLARS	Dept Req FED FTE	Dept Req OTHER DOLLARS	Dept Req OTHER FTE	Dept Req TOTAL DOLLARS	Dept Req TOTAL FTE	Dept Req One-Time DOLLARS
Assistant Public Defender III - Range 30	1,276,704	26.0					1,276,704	26.0	
Investigator - Range 23	277,152	8.0					277,152	8.0	
Secretary - Range 12	190,368	8.0					190,368	8.0	
Legal Assistant - Range 15	207,552	8.0					207,552	8.0	
							0	0.0	
Total PS	1,951,776	50.0	0	0.0	0	0.0	1,951,776	50.0	0
Travel - 140	245,100						245,100		
Supplies - 190	25,000						25,000		
Communications - 340	60,000						60,000		
Computer Equipment - 480	110,650						110,650		
Office Equipment - 590	64,090						64,090		
Other Equipment - 580	20,800						20,800		
Total EE	525,640		0		0		525,640		0
Program Distributions							0		
Total PSD	0		0		0		0		0
Transfers									
Total TRF	0		0		0		0		0
Grand Total	2,477,416	50.0	0	0.0	0	0.0	2,477,416	50.0	0

State Public Defender

DECISION ITEM DETAIL

Budget Unit	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Decision Item	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
OFFICE OF THE DIRECTOR								
FY12 Trial Caseload Crisis - 1151003								
SECRETARY	0	0.00	0	0.00	397,920	16.00	0	0.00
INVESTIGATOR	0	0.00	0	0.00	277,152	8.00	0	0.00
ASSISTANT PUBLIC DEFENDER	0	0.00	0	0.00	1,276,704	26.00	0	0.00
TOTAL - PS	0	0.00	0	0.00	1,951,776	50.00	0	0.00
TRAVEL, IN-STATE	0	0.00	0	0.00	245,100	0.00	0	0.00
SUPPLIES	0	0.00	0	0.00	25,000	0.00	0	0.00
COMMUNICATION SERV & SUPP	0	0.00	0	0.00	60,000	0.00	0	0.00
COMPUTER EQUIPMENT	0	0.00	0	0.00	110,650	0.00	0	0.00
OFFICE EQUIPMENT	0	0.00	0	0.00	64,090	0.00	0	0.00
OTHER EQUIPMENT	0	0.00	0	0.00	20,800	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	525,640	0.00	0	0.00
GRAND TOTAL	\$0	0.00	\$0	0.00	\$2,477,416	50.00	\$0	0.00
GENERAL REVENUE	\$0	0.00	\$0	0.00	\$2,477,416	50.00		0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00

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NEW DECISION ITEM
RANK: 5 OF 5

Department: State Public Defender	Budget Unit 15111C
Division: Public Defender - Legal Services	
DI Name: Cost to Continue Appellate/PCR	DI# 1151002

1. AMOUNT OF REQUEST

FY 2012 Budget Request				
	GR	Federal	Other	Total
PS	372,096	0	0	372,096
EE	80,925	0	0	80,925
PSD	0	0	0	0
TRF	0	0	0	0
Total	453,021	0	0	453,021
FTE	9.50	0.00	0.00	9.50

Est. Fringe	207,071	0	0	207,071
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

FY 2012 Governor's Recommendation				
	GR	Federal	Other	Total
PS	0	0	0	0
EE	0	0	0	0
PSD	0	0	0	0
TRF	0	0	0	0
Total	0	0	0	0
FTE	0.00	0.00	0.00	0.00

Est. Fringe	0	0	0	0
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

2. THIS REQUEST CAN BE CATEGORIZED AS:

<input type="checkbox"/> New Legislation	<input type="checkbox"/> New Program	<input type="checkbox"/> Fund Switch
<input type="checkbox"/> Federal Mandate	<input type="checkbox"/> Program Expansion	<input type="checkbox"/> Cost to Continue
<input type="checkbox"/> GR Pick-Up	<input type="checkbox"/> Space Request	<input type="checkbox"/> Equipment Replacement
<input type="checkbox"/> Pay Plan	<input checked="" type="checkbox"/> Other: CONSTITUTIONALLY MANDATED	

3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.

APPELLATE/PCR DIVISION FOUR YEAR PHASE IN -

Due to the severe nature of this issue and the costs involved to resolve Public Defender caseload crisis - the funding to alleviate the crisis has been requested in phases. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. The cost to continue the 2011 funding is this first priority in the 2012 Request. The second phase or the next twenty-five percent of the solution is requested as a new decision item in Fiscal Year 2012. The justification and explanation of decision items can be found in the "Trial Division - Cost to Continue" narrative.

NEW DECISION ITEM

RANK: 5 OF 5

Department: <u>State Public Defender</u>		Budget Unit <u>15111C</u>							
Division: <u>Public Defender - Legal Services</u>									
DI Name: <u>Cost to Continue Appellate/PCR</u>		DI# <u>1151002</u>							
5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.									
Budget Object Class/Job Class	Dept Req GR DOLLARS	Dept Req GR FTE	Dept Req FED DOLLARS	Dept Req FED FTE	Dept Req OTHER DOLLARS	Dept Req OTHER FTE	Dept Req TOTAL DOLLARS	Dept Req TOTAL FTE	Dept Req One-Time DOLLARS
Assistant Public Defender III - Range 30	245,520	5.0					245,520	5.0	
Investigator - Range 23	51,966	1.5					51,966	1.5	
Secretary - Range 12	35,694	1.5					35,694	1.5	
Legal Assistant - Range 15	38,916	1.5					38,916	1.5	
							0	0.0	
Total PS	372,096	9.5	0	0.0	0	0.0	372,096	9.5	0
Travel - 140	46,725						46,725		
Supplies - 190	4,750						4,750		
Communications - 340	11,400						11,400		
Building Lease Payments - 680	18,050						18,050		
Computer Equipment - 480	0						0		
Office Equipment - 590	0						0		
Other Equipment - 580	0						0		
Total EE	80,925		0		0		80,925		0
Program Distributions							0		
Total PSD	0		0		0		0		0
Transfers									
Total TRF	0		0		0		0		0
Grand Total	453,021	9.5	0	0.0	0	0.0	453,021	9.5	0

Caseload Increase—Appellate Division

FY 2011 Supplemental Request—\$157,715

Cost to Continue FY2011 Supplemental Decision Item—\$418,896

FY2012 New Decision Item—\$463,356

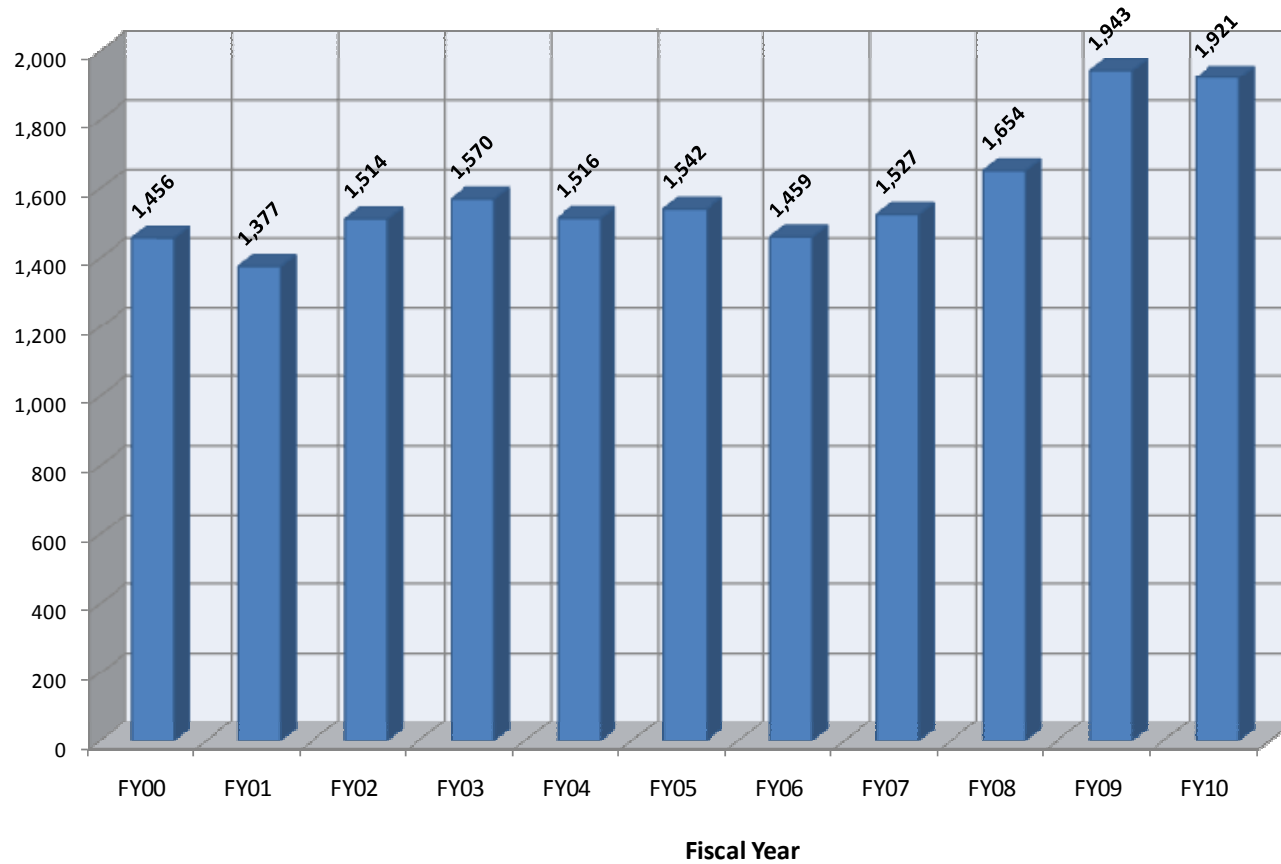
As previously stated there is a critical need for more staffing in the trial division. The same holds true in the Appellate Division. In fact, the Appellate Division had been reduced to meet the increasing critical needs in the Trial Division. In Fiscal Year 2009, the appellate caseload increased an 17.47% from Fiscal Year 2008. In Fiscal Year 2010, the Appellate Division opened 22 fewer cases than 2009, but still 267 more cases than Fiscal Year 2008 .

This decision item will only provide funding at the FY2010 caseload level. The purpose of this budget request, is to request funding to allow MSPD to provide representation in those cases we already have.

Appellate Division Protocol				
Description	FY10 Cases Opened	FY10 Case Overload Contract Relief	Protocol Hours Required for Case Type	Hours Required for Case Type
Death Penalty PCR	5	0	NA	0
Civil Commitment Cases	16	0	NA	0
Felony Appeals	396	20	83	34,528
Misdemeanor Appeals	31	0	83	2,573
Juvenile Appeals	8	3	83	913
PCR Appeals	468	1	62	29,078
PCR 24.035 Trials	699	178	21	18,417
PCR 29.15 Trials	278	8	62	17,732
Other	<u>20</u>	<u>1</u>	21	<u>441</u>
Total Number of Cases	1,921	211		
	Case Hours			103,682.00
	Adjusted for Withdrawn & Conflicts			-11,617.00
	Travel Hours			1,392.84
	Management Hours			<u>3,822.00</u>
	Total Hours			97,279.84
Attorneys Required (102,671/1740.88)				55.88
FY2010 - Public Defender Appellate Division Attorneys				<u>36.50</u>
Number of Additional Attorneys Required to meet Standard				19.38

Appellate Division Protocol				
	Protocol	FY2011 Supplemental Start Date= April 1, 2011	FY2012 Cost to Continue FY2011 Supplemental	FY2012 New Decision Item
<u>Cost Breakdown</u>				
<u>Personal Service</u>				
Assistant Public Defender III - Range 30	19.50	5.00	5.00	5.00
\$49,104	\$957,528	\$61,380	\$245,520	\$245,520
Investigators - Range 23	6.50	1.50	1.50	1.50
\$34,644	\$225,186	\$12,992	\$51,966	\$51,966
Secretaries - Range 12	6.50	1.50	1.50	1.50
\$23,796	\$154,674	\$8,924	\$35,694	\$35,694
Legal Assistants - Range 15	6.50	1.50	1.50	1.50
\$25,944	<u>\$168,636</u>	<u>\$9,729</u>	<u>\$38,916</u>	<u>\$38,916</u>
	39.00	9.50	9.50	9.50
Total Personal Service	\$1,506,024	\$93,024	\$372,096	\$372,096
<u>Expense & Equipment</u>				
<u>One-time Purchases</u>				
Attorney Package	20.00	5.00		5.00
\$2,950	\$59,000	\$14,750		\$14,750
Investigator Package	7.00	2.00		2.00
\$2,875	\$20,125	\$5,750		\$5,750
Legal Assistant Package	7.00	2.00		2.00
\$2,875	\$20,125	\$5,750		\$5,750
Secretary Package	7.00	2.00		2.00
\$9,105	<u>\$63,735</u>	<u>\$18,210</u>		<u>\$18,210</u>
Total One-Time Purchases	\$162,985	\$44,460		\$44,460
<u>On-Going Costs</u>				
Attorneys	19.50	5.00	5.00	5.00
\$9,750	\$190,125	\$12,188	\$48,750	\$48,750
Investigator	6.50	1.50	1.50	1.50
\$9,425	\$61,263	\$3,534	\$14,138	\$14,138
Legal Assistant	6.50	1.50	1.50	1.50
\$7,775	\$50,538	\$2,916	\$11,663	\$11,663
Secretary	6.50	1.50	1.50	1.50
\$4,250	<u>\$27,625</u>	<u>\$1,594</u>	<u>\$6,375</u>	<u>\$6,375</u>
Total Personnel Related On-Going Costs	\$329,550	\$20,231	\$80,925	\$80,925
	\$492,535	\$64,691	\$80,925	\$125,385
Total Expense and Equipment				
Total Decision Item Request	\$1,998,559	\$157,715	\$453,021	\$497,481

Appellate & Post Conviction Relief Cases - Opened Fiscal Year 2010



State Public Defender

DECISION ITEM DETAIL

Budget Unit	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Decision Item	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
OFFICE OF THE DIRECTOR								
Cost to Continue Appellate/PCR - 1151002								
SECRETARY	0	0.00	0	0.00	74,610	3.00	0	0.00
INVESTIGATOR	0	0.00	0	0.00	51,966	1.50	0	0.00
ASSISTANT PUBLIC DEFENDER	0	0.00	0	0.00	245,520	5.00	0	0.00
TOTAL - PS	0	0.00	0	0.00	372,096	9.50	0	0.00
TRAVEL, IN-STATE	0	0.00	0	0.00	46,725	0.00	0	0.00
SUPPLIES	0	0.00	0	0.00	4,750	0.00	0	0.00
COMMUNICATION SERV & SUPP	0	0.00	0	0.00	11,400	0.00	0	0.00
BUILDING LEASE PAYMENTS	0	0.00	0	0.00	18,050	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	80,925	0.00	0	0.00
GRAND TOTAL	\$0	0.00	\$0	0.00	\$453,021	9.50	\$0	0.00
GENERAL REVENUE	\$0	0.00	\$0	0.00	\$453,021	9.50		0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00

NEW DECISION ITEM
RANK: 5 OF 5

Department: State Public Defender	Budget Unit 15111C
Division: Public Defender - Legal Services	
DI Name: FY2012 Appellate/PCR Caseload Crisis DI# 1151004	

1. AMOUNT OF REQUEST

FY 2012 Budget Request					FY 2012 Governor's Recommendation				
	GR	Federal	Other	Total		GR	Federal	Other	Total
PS	372,096	0	0	372,096	PS	0	0	0	0
EE	125,385	0	0	125,385	EE	0	0	0	0
PSD	0	0	0	0	PSD	0	0	0	0
TRF	0	0	0	0	TRF	0	0	0	0
Total	<u>497,481</u>	<u>0</u>	<u>0</u>	<u>497,481</u>	Total	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	9.50	0.00	0.00	9.50	FTE	0.00	0.00	0.00	0.00
Est. Fringe	207,071	0	0	207,071	Est. Fringe	0	0	0	0

Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

Other Funds:

2. THIS REQUEST CAN BE CATEGORIZED AS:

<input type="checkbox"/> New Legislation	<input type="checkbox"/> New Program	<input type="checkbox"/> Fund Switch
<input type="checkbox"/> Federal Mandate	<input type="checkbox"/> Program Expansion	<input type="checkbox"/> Cost to Continue
<input type="checkbox"/> GR Pick-Up	<input type="checkbox"/> Space Request	<input type="checkbox"/> Equipment Replacement
<input type="checkbox"/> Pay Plan	<input checked="" type="checkbox"/> Other: CONSTITUTIONALLY MANDATED	

3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.

APPELLATE/PCR DIVISION FOUR YEAR PHASE IN -

Due to the severe nature of this issue and the costs involved to resolve Public Defender caseload crisis - the funding to alleviate the crisis has been requested in phases. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. The cost to continue the 2011 funding is this first priority in the 2012 Request. The second phase or the next twenty-five percent of the solution is requested as a new decision item in Fiscal Year 2012. The justification and explanation of decision items can be found in the "Trial Division - Cost to Continue" narrative.

NEW DECISION ITEM

RANK: 5 OF 5

Department: <u>State Public Defender</u>		Budget Unit <u>15111C</u>							
Division: <u>Public Defender - Legal Services</u>									
DI Name: <u>FY2012 Appellate/PCR Caseload Crisis</u> DI# <u>1151004</u>									
5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.									
Budget Object Class/Job Class	Dept Req GR DOLLARS	Dept Req GR FTE	Dept Req FED DOLLARS	Dept Req FED FTE	Dept Req OTHER DOLLARS	Dept Req OTHER FTE	Dept Req TOTAL DOLLARS	Dept Req TOTAL FTE	Dept Req One-Time DOLLARS
Assistant Public Defender III - Range 30	245,520	5.0					245,520	5.0	
Investigator - Range 23	51,966	1.5					51,966	1.5	
Secretary - Range 12	35,694	1.5					35,694	1.5	
Legal Assistant - Range 15	38,916	1.5					38,916	1.5	
							0	0.0	
Total PS	372,096	9.5	0	0.0	0	0.0	372,096	9.5	0
Travel - 140	46,725						46,725		
Supplies - 190	4,750						4,750		
Communications - 340	11,400						11,400		
Building Lease Payments - 680	18,050						18,050		
Computer Equipment - 480	25,915						25,915		
Office Equipment - 590	13,915						13,915		
Other Equipment - 580	4,630						4,630		
Total EE	125,385		0		0		125,385		0
Program Distributions							0		
Total PSD	0		0		0		0		0
Transfers									
Total TRF	0		0		0		0		0
Grand Total	497,481	9.5	0	0.0	0	0.0	497,481	9.5	0

State Public Defender

DECISION ITEM DETAIL

Budget Unit	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Decision Item	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
OFFICE OF THE DIRECTOR								
FY12 Appellate/PCR Caseload - 1151004								
SECRETARY	0	0.00	0	0.00	74,610	3.00	0	0.00
INVESTIGATOR	0	0.00	0	0.00	51,966	1.50	0	0.00
ASSISTANT PUBLIC DEFENDER	0	0.00	0	0.00	245,520	5.00	0	0.00
TOTAL - PS	0	0.00	0	0.00	372,096	9.50	0	0.00
TRAVEL, IN-STATE	0	0.00	0	0.00	46,725	0.00	0	0.00
SUPPLIES	0	0.00	0	0.00	4,750	0.00	0	0.00
COMMUNICATION SERV & SUPP	0	0.00	0	0.00	11,400	0.00	0	0.00
COMPUTER EQUIPMENT	0	0.00	0	0.00	25,915	0.00	0	0.00
OFFICE EQUIPMENT	0	0.00	0	0.00	13,915	0.00	0	0.00
OTHER EQUIPMENT	0	0.00	0	0.00	4,630	0.00	0	0.00
BUILDING LEASE PAYMENTS	0	0.00	0	0.00	18,050	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	125,385	0.00	0	0.00
GRAND TOTAL	\$0	0.00	\$0	0.00	\$497,481	9.50	\$0	0.00
GENERAL REVENUE	\$0	0.00	\$0	0.00	\$497,481	9.50		0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00

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NEW DECISION ITEM
RANK: 5 OF 5

Department: State Public Defender	Budget Unit: 15111C
Division: Public Defender - Legal Services	
DI Name: Non-Lawyer Staff - PD Offices	DI# 1151005

1. AMOUNT OF REQUEST

FY 2012 Budget Request				
	GR	Federal	Other	Total
PS	5,428,407	0	0	5,428,407
EE	2,173,911	0	0	1,920,427
PSD	0	0	0	0
TRF	0	0	0	0
Total	7,602,318	0	0	7,348,834

FTE **0.00** **0.00** **0.00** **192.25**

Est. Fringe	3,020,908	0	0	3,020,908
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

FY 2012 Governor's Recommendation				
	GR	Federal	Other	Total
PS	0	0	0	0
EE	0	0	0	0
PSD	0	0	0	0
TRF	0	0	0	0
Total	0	0	0	0

FTE **0.00** **0.00** **0.00** **0.00**

Est. Fringe	0	0	0	0
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

2. THIS REQUEST CAN BE CATEGORIZED AS:

<input type="checkbox"/> New Legislation	<input type="checkbox"/> New Program	<input type="checkbox"/> Fund Switch
<input type="checkbox"/> Federal Mandate	<input checked="" type="checkbox"/> Program Expansion	<input type="checkbox"/> Cost to Continue
<input type="checkbox"/> GR Pick-Up	<input type="checkbox"/> Space Request	<input type="checkbox"/> Equipment Replacement
<input type="checkbox"/> Pay Plan	<input type="checkbox"/> Other: _____	

3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.

MSPD attorneys are routinely performing non-attorney tasks. In order to most effectively utilize precious lawyer time, a substantial increase in support staff resources must be provided. The Senate Interim Committee on the Public Defender System and the Spangenberg Project in conjunction with George Mason University agree that there is a tremendous lack of support staff available to assist attorneys in their daily practice. Therefore attorneys are spending time on activities that should be performed by support staff.

In addition, only one-third of the hours spent on each case are from support staff. Currently, each attorney is supported by less than .50 FTE support staff.

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Non-Lawyer Staff - PD Offices	DI#	1151005

Current Ratios of Support Staff to Attorney Positions						8/10/2010
	Paralegals	Secretary	Investigators	Legal Assistants	Mitigation Specialists	
Trial	63.00	5.25	6.18	7.41	NA	
Appellate	24.33	3.84	6.64	0.00	12.17	
Capital	0.00	4.25	4.25	0.00	4.25	
Totals	56.69	5.00	6.09	8.67	52.64	1.93
Attorneys	368.50					
	1 Paralegal to Every 56.5 Attorneys	1 Secretary to Every 5 Attorneys	1 Investigator to Every 6 Attorneys	1 Legal Assistant to Every 8.67 Attorneys	1 Mitigation Specialist to Every 52.64 Attorneys	1.93 Attorneys to Every Support Staff

This decision item will bring a turnaround to our staffing ratios. Rather than having attorneys doing support staff tasks, there will be support staff to assist attorneys in preparing their cases. The positions sought would provide each hypothetical team of 3 attorneys with one investigator, one secretary and one legal assistant. Of course, staffing is seldom divided evenly and staffing would be placed where the needs are greatest.

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Non-Lawyer Staff - PD Offices	DI#1151005	

4. DESCRIBE THE DETAILED ASSUMPTIONS USED TO DERIVE THE SPECIFIC REQUESTED AMOUNT. (How did you determine that the requested number of FTE were appropriate? From what source or standard did you derive the requested levels of funding? Were alternatives such as outsourcing or automation considered? If based on new legislation, does request tie to TAFP fiscal note? If not, explain why. Detail which portions of the request are one-times and how those amounts were calculated.)

Division	Para-legal	Secretary	Investigator	Legal Assist.	Mitigation Specialist	Total Non Attorney	Attorneys	Total
Trial	5.00	60.25	51.00	42.25	0.00	158.50	315.00	473.50
Appellate	1.50	9.50	5.50	0.00	3.00	19.50	36.50	56.00
Capital	0.00	4.00	4.00	0.00	4.00	12.00	17.00	29.00
	6.50	73.75	60.50	42.25	7.00	190.00	368.50	558.5
Administration						26.75		26.75
						Total Authorized FTE		585.25

The Missouri State Public Defender System currently has 368.50 attorneys. If we provide support at a ratio of 1 to 3 for each class of support functions, then the support staff requirements are easy to determine. 368.50 attorneys divided by 3 = 123 of each class of support staff.

	Secretary	Investigator	Legal Assistant
Required	123.00	123.00	123.00
Current	73.75	60.25	42.50
Need	49.25	62.75	80.50

NEW DECISION ITEM

RANK: 5 OF 5

Department:	State Public Defender				Budget Unit	15111C			
Division:	Public Defender - Legal Services								
DI Name:	Non-Lawyer Staff - PD Offices				DI#1151005				
5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.									
Budget Object Class/Job Class	Dept Req GR DOLLARS	Dept Req GR FTE	Dept Req FED DOLLARS	Dept Req FED FTE	Dept Req OTHER DOLLARS	Dept Req OTHER FTE	Dept Req TOTAL DOLLARS	Dept Req TOTAL FTE	Dept Req One-Time DOLLARS
Secretary - Range 12	1,166,004						1,166,004	49.0	
Investigator - Range 23	2,173,911						2,173,911	62.8	
Legal Assistants - Range 15	2,088,492						2,088,492	80.5	
							0	0.0	
Total PS	5,428,407	0.0	0	0.0	0	0.0	5,428,407	192.3	0
Travel - 140	748,163						748,163		
Supplies - 190	81,419						81,419		
Communications - 340	230,700						230,700		
Other Equipment - 580	223,545						223,545		
Office Equipment - 590	90,805						90,805		
Computer Equipment - 480	545,795						545,795		
							0		
Total EE	1,920,427		0		0		1,920,427		0
Program Distributions							0		
Total PSD	0		0		0		0		0
Transfers									
Total TRF	0		0		0		0		0
Grand Total	7,348,834	0.0	0	0.0	0	0.0	7,348,834	192.3	0

State Public Defender

DECISION ITEM DETAIL

Budget Unit	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Decision Item	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
OFFICE OF THE DIRECTOR								
Non-Lawyer Staff - PD Offices - 1151005								
SECRETARY	0	0.00	0	0.00	3,254,496	129.50	0	0.00
INVESTIGATOR	0	0.00	0	0.00	2,173,911	62.75	0	0.00
TOTAL - PS	0	0.00	0	0.00	5,428,407	192.25	0	0.00
TRAVEL, IN-STATE	0	0.00	0	0.00	748,162	0.00	0	0.00
SUPPLIES	0	0.00	0	0.00	81,419	0.00	0	0.00
COMMUNICATION SERV & SUPP	0	0.00	0	0.00	230,700	0.00	0	0.00
COMPUTER EQUIPMENT	0	0.00	0	0.00	545,795	0.00	0	0.00
OFFICE EQUIPMENT	0	0.00	0	0.00	223,545	0.00	0	0.00
OTHER EQUIPMENT	0	0.00	0	0.00	90,805	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	1,920,426	0.00	0	0.00
GRAND TOTAL	\$0	0.00	\$0	0.00	\$7,348,833	192.25	\$0	0.00
GENERAL REVENUE	\$0	0.00	\$0	0.00	\$7,348,833	192.25		0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00

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NEW DECISION ITEM
RANK: 5 OF 5

Department: State Public Defender	Budget Unit 15111C
Division: Public Defender - Legal Services	
DI Name: Office Space Requirements	DI# 1151006

1. AMOUNT OF REQUEST

FY 2012 Budget Request					FY 2012 Governor's Recommendation				
	GR	Federal	Other	Total		GR	Federal	Other	Total
PS	0	0	0	0	PS	0	0	0	0
EE	2,196,118	0	0	2,196,118	EE	0	0	0	0
PSD	0	0	0	0	PSD	0	0	0	0
TRF	0	0	0	0	TRF	0	0	0	0
Total	2,196,118	0	0	2,196,118	Total	0	0	0	0
FTE	0.00	0.00	0.00	0.00	FTE	0.00	0.00	0.00	0.00

Est. Fringe	0	0	0	0
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Est. Fringe	0	0	0	0
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

Other Funds:

2. THIS REQUEST CAN BE CATEGORIZED AS:

<input type="checkbox"/> New Legislation	<input type="checkbox"/> New Program	<input type="checkbox"/> Fund Switch
<input type="checkbox"/> Federal Mandate	<input type="checkbox"/> Program Expansion	<input type="checkbox"/> Cost to Continue
<input type="checkbox"/> GR Pick-Up	<input checked="" type="checkbox"/> Space Request	<input type="checkbox"/> Equipment Replacement
<input type="checkbox"/> Pay Plan	<input type="checkbox"/> Other: _____	

3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.

NEW DECISION ITEM

RANK: 5 **OF** 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Office Space Requirements	DI#	1151006

When the Missouri State Public Defender System was established, the burden and expense of office space and utility services for local public defender offices was placed on the counties served by that office. That burden remains today in the form of RSMo. 600.040.1 which reads:

The city or county shall provide office space and utility services, other than telephone service, for the circuit or regional public defender and his personnel. If there is more than one county in a circuit or region, each county shall contribute, on the basis of population, its pro rata share of the costs of office space and utility services, other than telephone service. The state shall pay, within the limits of the appropriation therefore, all other expenses and costs of the state public defender system authorized under this chapter.

Some county governments object to and resent being required to pay for office space for a Department of State Government.

When the Missouri State Public Defender System was first established and RSMo. 600.040.1 was first enacted, public defender services in most areas of the state were provided through private attorneys who had contracted with Missouri's Public Defender System to provide such services. Since these private contract counsel provided services from their private offices, county governments did not have to provide office space and utilities. In reality the State paid, through the established contract rate.

In 1997, the legislature responded to the refusal of some counties to provide or pay for Public Defender office space. Language was added to House Bill 5, allowing for the interception of prisoner per diem payments to counties failing to meet their obligations under 600.040. The state has intercepted some money intended for counties that scoffed at their obligation, however, the interceptions and threat of interceptions have put great strain on state-county relations.

In 1999, the legislature once again addressed the problem of providing Public Defender office space. A new section, (RSMo. 600.101), was added which allows disputes between counties and the State Public Defender to be submitted to the Judicial Finance Commission (RSMo. 477.600). Section 600.101 also calls for a study and report from the Judicial Resources Commission to be prepared for the chairs of the House and Senate Judiciary Committees, Senate Appropriations Committee, and House Budget Committee. This year, the Missouri State Public Defender System and the counties of Public Defender Area 36, Butler, Carter, Ripley and Wayne found it necessary to take a dispute to this commission.

Today, some county governments provide public defender office space in county courthouses or other county owned facilities, some counties rent office space and pay their pro rata share of that rent as required by statute. Some counties, strapped for office space for their own county officials, provide woefully inadequate space in county facilities. Some county governments provide no office space at all and refuse to provide rented office space outside county facilities.

NEW DECISION ITEM

RANK: 5 **OF** 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Office Space Requirements	DI#	1151006

Disputes have not only concerned whether or not office space will be provided at all, they have included where and what space will be provided. Either because of economic necessity or in passive resistance to their obligation, some counties house the Public Defender in inadequate facilities. Public Defenders have endured the indignities of insect infestation, lack of privacy, leaky roofs, cramped quarters, and black mold to name a few.

Counties simply have no interest in the adequacy of the Public Defender facilities, especially when they don't want to provide space at all. Most of our offices serve multiple counties. It is a logistical nightmare to get multiple commissioners in multiple counties to sign off on every change to a lease involving one of our offices. (including no less than 33 commissioners in our Chillicothe office, which covers 11 counties!) A number of counties refuse to provide or pay for additional space to accommodate growing defender staff, a problem that will multiply if additional staffing is forthcoming in this legislative session. While MSPD has not recently received significant additional staffing, we do move positions among offices based upon growing / dropping caseload.

Some of the results:

- Attorneys doubled up in offices, making a confidential client meeting impossible;
- Attorneys literally setting up an office in the telephone / computer server closet, as well as taking over all public space in the office – break room, conference room, library – so that these generally standard areas in a law office are no longer available anywhere within in the office;
- Having to install locks on all filing cabinets and moving them into a public hallway to free up space for staff to squeeze in another desk;
- MSPD picking up the difference in the rent for additional essential space in a few situations despite a lack of funding for that purpose.
- Counties fighting with MSPD and among themselves when more than one county covered by an office has available 'free' county space and doesn't want to contribute cash to another county instead. These disputes have escalated to lawsuits between counties on at least one occasion. The State Public Defender Commission is interested in locating offices in multi-county Districts where they will be the most effective and efficient use of state resources. Counties do not share that interest, preferring the office to be located where it will cost the least and have the most positive economic impact on their local economy, efficiency and the desires of other counties and the State Public Defender notwithstanding.
- Some counties flatly refusing to pay any rent for an office not located in their county, with the result that MSPD must pick up their portion of the lease cost, despite a lack of funding for this purpose. There is a provision for the state to intercept prisoner per diem reimbursement costs to cover unpaid

NEW DECISION ITEM

RANK: 5 **OF** 5

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Office Space Requirements	DI#	1151006

- Some counties providing space that is in very poor shape and unfit for a law office. We have been placed in office space where the ceiling tiles were crumbling onto the attorneys' desks, where the "closed file room" is a basement with a dirt floor that turns to mud with every rain, in offices with asbestos, cockroaches, and termite infestations. Such unsuitable and difficult working conditions undoubtedly contribute to our turnover, as well as to reduced productivity, yet MSPD's hands are tied.

The State Public Defender is not interested in securing fancy, luxurious offices. Its interest is to have facilities adequate to ensure efficient, effective use of personnel and other resources appropriated to the Department.

In summary, the current statutory scheme requires counties to cooperate with each other, and with this Department, to provide office space for a Department of State Government. They do so under the threat of prisoner per diem interceptions. It is a formula for conflict between the State Public Defender and counties, as well as between counties of multi-county districts. The problem is sure to get worse in the future. Under the current statute, Missouri's Public Defender Commission is unable to establish and/or expand offices as needed or where needed as caseload varies from year to year.

The physical plant of local public defender offices varies greatly, depending upon the ability and/or willingness of local county governments to provide office space. Some public defender offices have adequate space, which greatly enhances their efficiency. Other offices have completely inadequate space and their ability to effectively and efficiently accomplish their mission is greatly reduced. Under the current statute, the administration can do little to ensure the adequacy and uniformity of office space in local public defender offices.

A change in the legislation, specifically repealing portions of RSMo. 600.040.1, is recommended. Although probably adequate at the time the public defender system was first organized, this Department has grown far beyond its humble beginnings and the original intent of RSMo. 600.040.1.

The legislature, judiciary and public demand a swift, efficient administration of justice. In order to meet that demand, the Missouri Public Defender System needs adequate, efficient physical plants in all its offices. This need is simply not being met under the current statutory scheme.

NEW DECISION ITEM

RANK: 5 OF 5

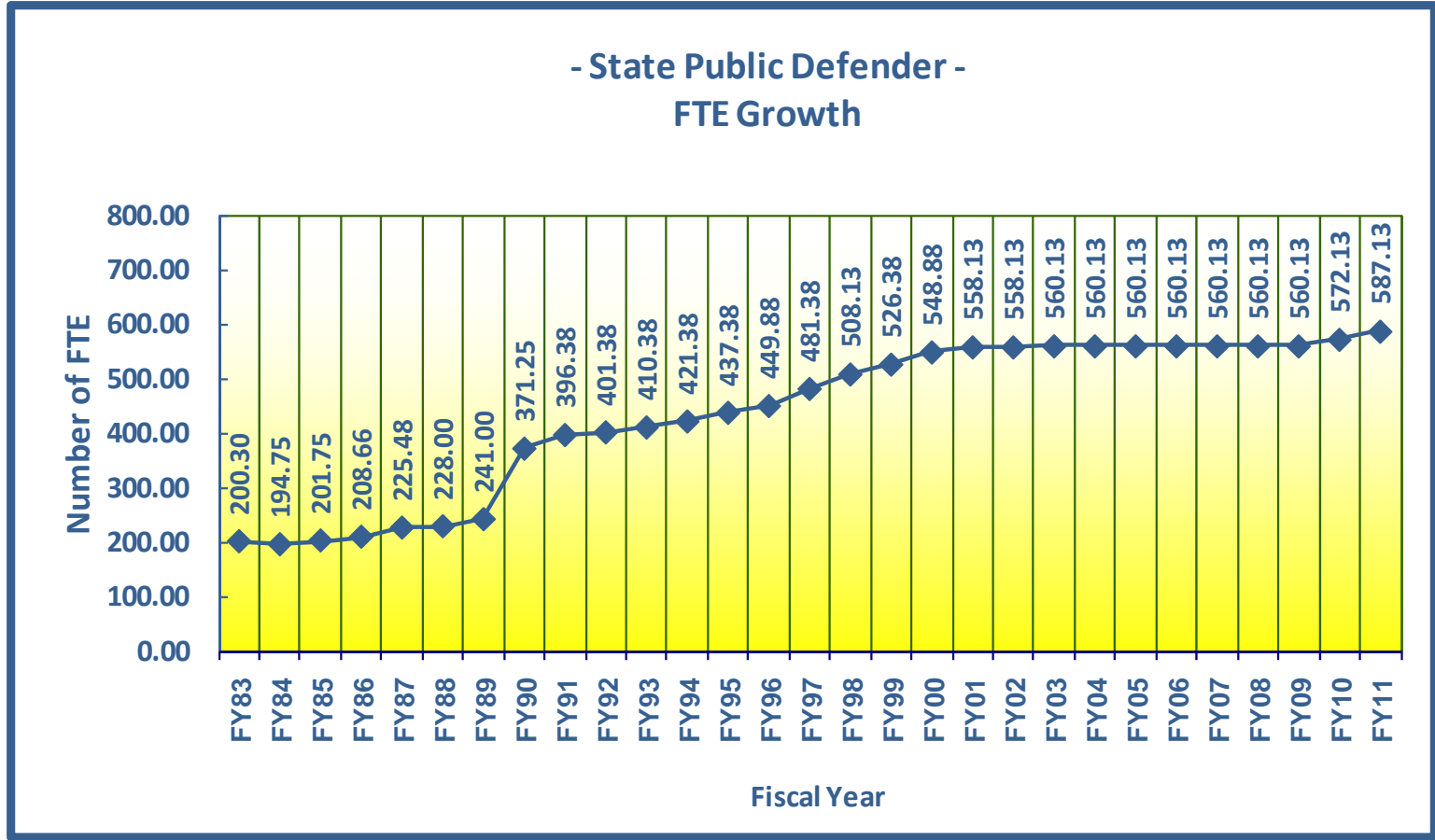
Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Office Space Requirements	DI#	1151006

4. DESCRIBE THE DETAILED ASSUMPTIONS USED TO DERIVE THE SPECIFIC REQUESTED AMOUNT. (How did you determine that the requested number of FTE were appropriate? From what source or standard did you derive the requested levels of funding? Were alternatives such as outsourcing or automation considered? If based on new legislation, does request tie to TAFP fiscal note? If not, explain why. Detail which portions of the request are one-times and how those amounts were calculated.)

See included spreadsheet.

5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.

Budget Object Class/Job Class	Dept Req GR DOLLARS	Dept Req GR FTE	Dept Req FED DOLLARS	Dept Req FED FTE	Dept Req OTHER DOLLARS	Dept Req OTHER FTE	Dept Req TOTAL DOLLARS	Dept Req TOTAL FTE	Dept Req One-Time DOLLARS
							0	0.0	
							0	0.0	
Total PS	0	0.0	0	0.0	0	0.0	0	0.0	0
Fuel & Utilities - 180	88,338						88,338		
Housekeeping & Janitorial	95,560						95,560		
Building Lease Payments	2,012,220						2,012,220		
Total EE	2,196,118		0		0		2,196,118		0
Program Distributions							0		
Total PSD	0		0		0		0		0
Transfers									
Total TRF	0		0		0		0		0
Grand Total	2,196,118	0.0	0	0.0	0	0.0	2,196,118	0.0	0



Cost of Renting Office Space for All Local Public Defender Offices
Revised August 20, 2010

Office	Est. Sq. Ft	Total Rent	Estimated Utilities	Janitor/ Trash	Total Cost	Comment
Kirksville	2,060	\$14,400	Inclusive	\$1,800	\$16,200	Counties Lease - Expires 05/31/2017
Maryville	2,060	\$10,350	Inclusive	\$1,200	\$11,550	Counties Lease - Expires 12/31/2013
St. Joseph	5,400	\$32,600	Inclusive	County	\$32,600	County Lease - Expires 06/15/2015
Liberty	5,100	\$53,115			\$53,115	In County Owned Space
Hannibal	2,625	\$35,700	Inclusive	\$2,700	\$38,400	Counties Lease - Expires 12/31/2014
St. Charles	3,675	\$45,000			\$45,000	In Courthouse
Fulton	3,440	\$26,400		\$1,800	\$28,200	Counties Lease - Expires 12/31/2011
Columbia	6,085	\$65,775		\$3,600	\$69,375	In County Owned Space - Inadequate
Moberly	2,800	\$30,000	Inclusive	\$3,600	\$33,600	Counties Lease - Expires 12/31/2017
Sedalia	3,675	\$38,500	Inclusive	\$3,000	\$41,500	Counties Lease - Lease Expired
Kansas City	14,575	\$250,000	Inclusive	\$0	\$250,000	County Lease - Lease Expired 12/31/2009
Harrisonville	4,500	\$66,915		\$4,420	\$71,335	Counties Lease - Expires 08/31/2017
Jefferson City	3,750	\$42,200			\$42,200	In County Owned Space
Union	3,225	\$40,325	Inclusive	\$3,600	\$43,925	In County Owned Space
St. Louis County	8,815	\$185,000	Inclusive	\$0	\$185,000	In Courthouse
St. Louis City	13,125	\$280,000	Inclusive	\$37,440	\$317,440	In Carnahan Courthouse
Hillsboro	3,345	\$41,250	\$0	\$0	\$41,250	In Courthouse
Farmington	4,641	\$45,625		\$3,000	\$48,625	Counties Lease - Expired 06/30/2010
Rolla	7,084	\$61,200		\$3,600	\$64,800	Counties Lease - Expires 01/31/2011
Lebanon	4,100	\$28,800	\$7,200	\$2,700	\$38,700	Counties Lease - Expires 12/31/2014
Nevada	3,000	\$24,840	Inclusive	\$1,500	\$26,340	Counties Lease - Expires 12/31/2011
Carthage	6,700	\$120,750			\$120,750	In County Owned Space -Inadequate
Bolivar	3,500	\$34,125	\$8,531	\$3,600	\$46,256	Counties Lease-Inadequate-Expires 06/11
Springfield	7,450	\$117,950	Inclusive	\$4,800	\$122,750	Counties Lease - Expires 06/30/2012
Jackson	5,377	\$60,750			\$60,750	In County Owned Space
Caruthersville	3,103	\$31,775	Inclusive	\$1,200	\$32,975	Counties Lease - Expired 06/30/95
Kennett	1,777	\$32,175	\$8,044	\$1,200	\$41,419	In County Owned Space
Poplar Bluff	4,480	\$43,500	\$18,000	\$3,600	\$65,100	Counties/State Lease Expires 01/31/2016
West Plains	4,800	\$13,800	Inclusive	\$1,500	\$15,300	Counties Lease - Expires 12/31/2010
Monett	4,300	\$46,250	\$11,563	\$1,680	\$59,493	Counties Lease - Expired 09/30/09
Chillicothe	4,500	\$30,000	Inclusive	\$2,100	\$32,100	Counties Lease - Expires 12/31/2017
Ava	4,560	\$28,500		\$1,920	\$30,420	Counties Lease - Expires 05/31/2015
Troy	3,225	\$34,650			\$34,650	In County Owned Space
Columbia Defenderplex	22,450	\$305,000	\$35,000	\$0	\$340,000	State Public Defender Pays
St. Louis Defenderplex	15,959	\$216,114	Inclusive	\$0	\$216,114	State Public Defender Pays
KC Defenderplex	8,765	<u>\$134,650</u>	Inclusive	\$0	\$134,650	State Public Defender Pays
	208,026	\$2,667,984	\$88,338	\$95,560	\$2,851,882	
	Less: Current Agency Payments				\$655,764	
	Total Implementation Costs				\$2,196,118	

State Public Defender

DECISION ITEM DETAIL

Budget Unit	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Decision Item	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
OFFICE OF THE DIRECTOR								
Office Space Requirements - 1151006								
FUEL & UTILITIES	0	0.00	0	0.00	88,338	0.00	0	0.00
HOUSEKEEPING & JANITORIAL SERV	0	0.00	0	0.00	95,560	0.00	0	0.00
BUILDING LEASE PAYMENTS	0	0.00	0	0.00	2,012,220	0.00	0	0.00
TOTAL - EE	0	0.00	0	0.00	2,196,118	0.00	0	0.00
GRAND TOTAL	\$0	0.00	\$0	0.00	\$2,196,118	0.00	\$0	0.00
GENERAL REVENUE	\$0	0.00	\$0	0.00	\$2,196,118	0.00		0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00

State Public Defender

DECISION ITEM SUMMARY

Budget Unit								
Decision Item	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Budget Object Summary	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Fund	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
GRANTS								
CORE								
PROGRAM-SPECIFIC								
PUBLIC DEFENDER-FEDERAL & OTHR	0	0.00	125,000	0.00	125,000	0.00	125,000	0.00
TOTAL - PD	0	0.00	125,000	0.00	125,000	0.00	125,000	0.00
TOTAL	0	0.00	125,000	0.00	125,000	0.00	125,000	0.00
GRAND TOTAL	\$0	0.00	\$125,000	0.00	\$125,000	0.00	\$125,000	0.00

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CORE DECISION ITEM

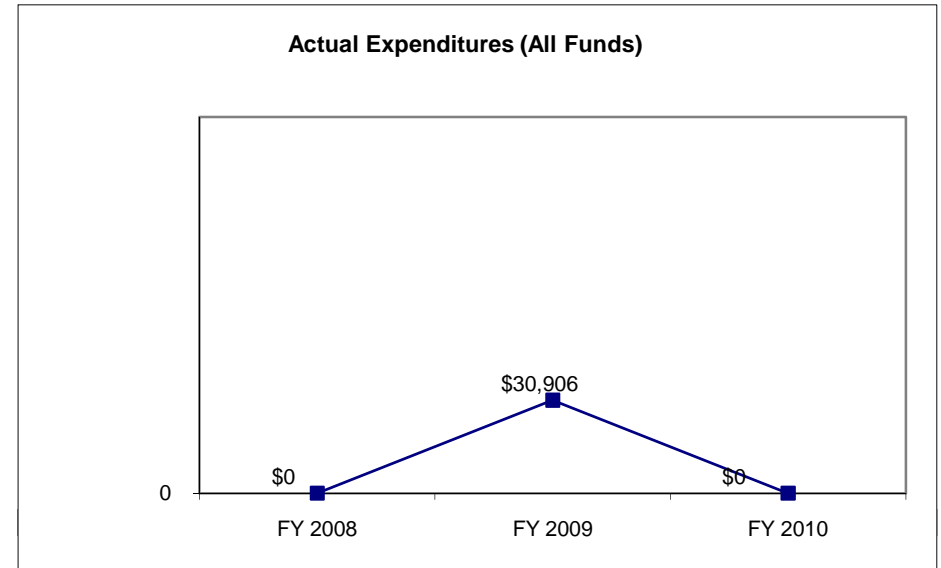
Department: State Public Defender					Budget Unit 15131C				
Division: Public Defender - Federal & Other									
Core: Core Request									
1. CORE FINANCIAL SUMMARY									
FY 2012 Budget Request					FY 2012 Governor's Recommendation				
	GR	Federal	Other	Total		GR	Federal	Other	Total
PS	0	0	0	0	PS	0	0	0	0
EE	0	0	0	0	EE	0	0	0	0
PSD	0	0	125,000	125,000	PSD	0	0	125,000	125,000
TRF	0	0	0	0	TRF	0	0	0	0
Total	0	0	125,000	125,000	Total	0	0	125,000	125,000
FTE					FTE				
	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00
Est. Fringe	0	0	0	0	Est. Fringe	0	0	0	0
<i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i>					<i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i>				
Other Funds:					Other Funds:				
2. CORE DESCRIPTION									
Appropriation is requested to have spending authority should Federal or Other Funds become available during Fiscal Year 2012 to assist in funding the State Public Defender System.									
3. PROGRAM LISTING (list programs included in this core funding)									

CORE DECISION ITEM

Department: State Public Defender	Budget Unit <u>15131C</u>
Division: Public Defender - Federal & Other	
Core: Core Request	

4. FINANCIAL HISTORY

	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Current Yr.
Appropriation (All Funds)	125,000	125,000	125,000	125,000
Less Reverted (All Funds)	0	0	0	N/A
Budget Authority (All Funds)	125,000	125,000	125,000	N/A
Actual Expenditures (All Funds)	0	30,906	0	N/A
Unexpended (All Funds)	125,000	94,094	125,000	N/A
Unexpended, by Fund:				
General Revenue	0	0	0	N/A
Federal	0	0	0	N/A
Other	0	0	0	N/A



Reverted includes Governor's standard 3 percent reserve (when applicable) and any extraordinary expenditure restrictions.

NOTES:

**STATE OF MISSOURI
FUND FINANCIAL SUMMARY**

DEPARTMENT: State Public Defender
FUND NAME: Federal & Other
FUND NUMBER: 0912

☐ Statute _____
☐ Constitution _____

☒ Administratively Created
☐ Interest Deposited To Fund

☐ Subject To Biennial Sweep
☐ Subject to Other Sweeps (see notes)

	FY 2010 ADJUSTED APPROP	FY 2010 ACTUAL SPENDING	FY 2011 ADJUSTED APPROP	FY 2012 REQUESTED	FY 2012 GOVERNOR RECOMMEND
FUND OPERATIONS					
BEGINNING CASH BALANCE	0	0	0	0	0
RECEIPTS:					
REVENUE (Cash Basis: July 1 - June 30)	0	0	0	0	0
TRANSFERS IN	0	0	0	0	0
TOTAL RECEIPTS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL RESOURCES AVAILABLE	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
APPROPRIATIONS (INCLUDES REAPPROPS):					
OPERATING APPROPS	0	0	0	0	0
TRANSFER APPROPS	0	0	0	0	0
CAPITAL IMPROVEMENTS APPROPS	0	0	0	0	0
TOTAL APPROPRIATIONS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
BUDGET BALANCE	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
UNEXPENDED APPROPRIATION *	0	0	0	0	0
OTHER ADJUSTMENTS	0	0	0	0	0
ENDING CASH BALANCE	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
FUND OBLIGATIONS					
ENDING CASH BALANCE	0	0	0	0	0
OTHER OBLIGATIONS					
OUTSTANDING PROJECTS	0	0	0	0	0
CASH FLOW NEEDS	0	0	0	0	0
TOTAL OTHER OBLIGATIONS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
UNOBLIGATED CASH BALANCE	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

FUND PURPOSE: Appropriation is requested have spending authority should Federal or Other Funds become available durring Fiscal Year 2012 to assist in funding the State Public Defender System

NOTES: There is no cash in this fund at the current time - September 29, 2010.

State Public Defender

DECISION ITEM DETAIL

Budget Unit	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Decision Item	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
GRANTS								
CORE								
PROGRAM DISTRIBUTIONS	0	0.00	125,000	0.00	125,000	0.00	125,000	0.00
TOTAL - PD	0	0.00	125,000	0.00	125,000	0.00	125,000	0.00
GRAND TOTAL	\$0	0.00	\$125,000	0.00	\$125,000	0.00	\$125,000	0.00
GENERAL REVENUE	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00
FEDERAL FUNDS	\$0	0.00	\$125,000	0.00	\$125,000	0.00	\$125,000	0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00

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State Public Defender

DECISION ITEM SUMMARY

Budget Unit								
Decision Item	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Budget Object Summary	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Fund	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
LEGAL DEFENSE & DEFENDER FUND								
CORE								
PERSONAL SERVICES								
LEGAL DEFENSE AND DEFENDER	112,872	2.00	129,507	2.00	129,507	2.00	129,507	2.00
TOTAL - PS	112,872	2.00	129,507	2.00	129,507	2.00	129,507	2.00
EXPENSE & EQUIPMENT								
LEGAL DEFENSE AND DEFENDER	1,158,993	0.00	2,795,756	0.00	2,795,756	0.00	2,795,756	0.00
TOTAL - EE	1,158,993	0.00	2,795,756	0.00	2,795,756	0.00	2,795,756	0.00
PROGRAM-SPECIFIC								
LEGAL DEFENSE AND DEFENDER	68,851	0.00	55,000	0.00	55,000	0.00	55,000	0.00
TOTAL - PD	68,851	0.00	55,000	0.00	55,000	0.00	55,000	0.00
TOTAL	1,340,716	2.00	2,980,263	2.00	2,980,263	2.00	2,980,263	2.00
GRAND TOTAL	\$1,340,716	2.00	\$2,980,263	2.00	\$2,980,263	2.00	\$2,980,263	2.00

CORE DECISION ITEM

Department: State Public Defender	Budget Unit 15141C
Division: Public Defender	
Core: Legal Defense & Defender Core Request	

1. CORE FINANCIAL SUMMARY

	FY 2012 Budget Request			
	GR	Federal	Other	Total
PS	0	0	129,507	129,507
EE	0	0	2,850,756	2,850,756
PSD	0	0	0	0
TRF	0	0	0	0
Total	0	0	2,980,263	2,980,263
FTE	0.00	0.00	2.00	2.00

Est. Fringe	0	0	72,071	72,071
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

	FY 2012 Governor's Recommendation			
	GR	Federal	Other	Total
PS	0	0	129,507	129,507
EE	0	0	2,850,756	2,850,756
PSD	0	0	0	0
TRF	0	0	0	0
Total	0	0	2,980,263	2,980,263
FTE	0.00	0.00	2.00	2.00

Est. Fringe	0	0	72,071	72,071
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

2. CORE DESCRIPTION

As the laws continue to change and staffing continues to change, training of public defenders and their staff becomes more critical. The funds in this appropriation are collected from the indigent accused and by statute are used at the discretion of the Director of the State Public Defender System for the operation of the department, including training.

CORE DECISION ITEM

Department: State Public Defender

Budget Unit 15141C

Division: Public Defender

Core: Legal Defense & Defender Core Request

3. PROGRAM LISTING (list programs included in this core funding)

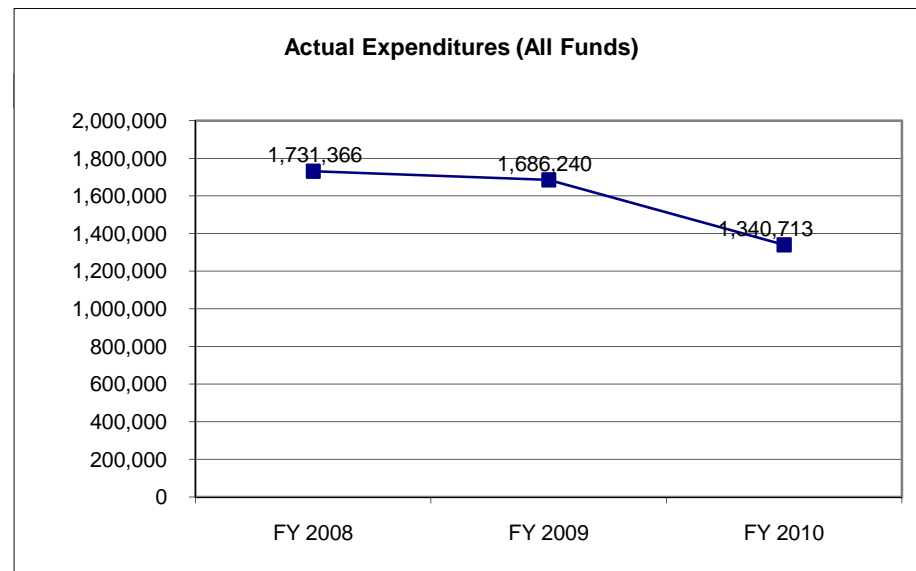
Training of all employees within the State Public Defender System is an important part of the day to day operation. Examples of system training provided would include:

Trial Skills Workshop
Advanced Trial Skills Training
New Attorney Training
New Employee Training
New Defender Workshop
Missouri Association of Criminal Defense Lawyers

Appellate Record Preservation
National Association of Criminal Defense Attorneys
Life in the Balance (Death Penalty)
Computer Training
Defender Management

4. FINANCIAL HISTORY

	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Current Yr.
Appropriation (All Funds)	2,976,491	2,980,263	2,980,263	2,980,263
Less Reverted (All Funds)	0	0	0	N/A
Budget Authority (All Funds)	2,976,491	2,980,263	2,980,263	N/A
Actual Expenditures (All Funds)	1,731,366	1,686,240	1,340,713	N/A
Unexpended (All Funds)	1,245,125	1,294,023	1,639,550	N/A
Unexpended, by Fund:				
General Revenue	0	0	0	N/A
Federal	0	0	0	N/A
Other	0	0	0	N/A



State Public Defender

DECISION ITEM DETAIL

Budget Unit	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Decision Item	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
LEGAL DEFENSE & DEFENDER FUND								
CORE								
DISTRICT DEFENDER	38,753	0.54	0	0.00	0	0.00	0	0.00
DIVISION DIRECTOR	38,132	0.46	0	0.00	83,196	1.00	83,196	1.00
PROGRAM TECHNICIAN	35,987	1.00	67,318	2.00	35,952	1.00	35,952	1.00
OTHER	0	0.00	62,189	0.00	10,359	0.00	10,359	0.00
TOTAL - PS	112,872	2.00	129,507	2.00	129,507	2.00	129,507	2.00
TRAVEL, IN-STATE	307,643	0.00	485,025	0.00	375,000	0.00	375,000	0.00
TRAVEL, OUT-OF-STATE	15,064	0.00	50,000	0.00	20,000	0.00	20,000	0.00
FUEL & UTILITIES	0	0.00	2,000	0.00	500	0.00	500	0.00
SUPPLIES	84,226	0.00	115,000	0.00	115,000	0.00	115,000	0.00
PROFESSIONAL DEVELOPMENT	39,564	0.00	180,000	0.00	75,000	0.00	75,000	0.00
COMMUNICATION SERV & SUPP	252,074	0.00	325,000	0.00	350,000	0.00	350,000	0.00
PROFESSIONAL SERVICES	18,129	0.00	321,500	0.00	321,500	0.00	321,500	0.00
HOUSEKEEPING & JANITORIAL SERV	870	0.00	10,000	0.00	10,000	0.00	10,000	0.00
M&R SERVICES	199,109	0.00	350,000	0.00	350,000	0.00	350,000	0.00
COMPUTER EQUIPMENT	65,334	0.00	434,231	0.00	510,493	0.00	510,493	0.00
OFFICE EQUIPMENT	105,487	0.00	375,000	0.00	450,000	0.00	450,000	0.00
OTHER EQUIPMENT	0	0.00	3,000	0.00	3,000	0.00	3,000	0.00
BUILDING LEASE PAYMENTS	0	0.00	20,000	0.00	20,000	0.00	20,000	0.00
EQUIPMENT RENTALS & LEASES	7,235	0.00	20,000	0.00	20,000	0.00	20,000	0.00
MISCELLANEOUS EXPENSES	64,258	0.00	105,000	0.00	175,263	0.00	175,263	0.00
TOTAL - EE	1,158,993	0.00	2,795,756	0.00	2,795,756	0.00	2,795,756	0.00
REFUNDS	68,851	0.00	55,000	0.00	55,000	0.00	55,000	0.00
TOTAL - PD	68,851	0.00	55,000	0.00	55,000	0.00	55,000	0.00
GRAND TOTAL	\$1,340,716	2.00	\$2,980,263	2.00	\$2,980,263	2.00	\$2,980,263	2.00
GENERAL REVENUE	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00
OTHER FUNDS	\$1,340,716	2.00	\$2,980,263	2.00	\$2,980,263	2.00	\$2,980,263	2.00

**STATE OF MISSOURI
FUND FINANCIAL SUMMARY**

DEPARTMENT: Office of the State Public Defender
FUND NAME: Legal Defense & Defender Fund
FUND NUMBER: 0670

☒ Statute RSMo 600.090
☐ Constitution _____

☒ Administratively Created
☐ Interest Deposited To Fund

☒ Subject To Biennial Sweep
☐ Subject to Other Sweeps (see notes)

	FY 2010 ADJUSTED APPROP	FY 2010 ACTUAL SPENDING	FY 2011 ADJUSTED APPROP	FY 2012 REQUESTED	FY 2012 GOVERNOR RECOMMEND
FUND OPERATIONS					
BEGINNING CASH BALANCE	0	147,484	394,025	393,575	393,575
RECEIPTS:	0				
REVENUE (Cash Basis: July 1 - June 30)	0	1,660,502	3,054,813	2,661,688	2,661,688
TRANSFERS IN	0	0	0	0	0
TOTAL RECEIPTS	0	1,660,502	3,054,813	2,661,688	2,661,688
TOTAL RESOURCES AVAILABLE	0	1,807,986	3,448,838	3,055,263	3,055,263
APPROPRIATIONS (INCLUDES REAPPROPS):					
OPERATING APPROPS	0	1,340,713	2,980,263	0	0
TRANSFER APPROPS	0	73,248	75,000	75,000	75,000
CAPITAL IMPROVEMENTS APPROPS	0	0	0	0	0
TOTAL APPROPRIATIONS	0	1,413,961	3,055,263	75,000	75,000
BUDGET BALANCE	0	394,025	393,575	2,980,263	2,980,263
UNEXPENDED APPROPRIATION *	0	0	0	0	0
OTHER ADJUSTMENTS	0	0	0	0	0
ENDING CASH BALANCE	0	394,025	393,575	2,980,263	2,980,263
FUND OBLIGATIONS					
ENDING CASH BALANCE	0	394,025	393,575	2,980,263	2,980,263
OTHER OBLIGATIONS					
OUTSTANDING PROJECTS	0	0	0	0	0
CASH FLOW NEEDS	0	0	0	0	0
TOTAL OTHER OBLIGATIONS	0	0	0	0	0
UNOBLIGATED CASH BALANCE	0	394,025	393,575	2,980,263	2,980,263

FUND PURPOSE: The funds in this appropriation are collected from the indigent accused and by statute are used at the discretion of the Director of the State Public Defender System for the operation of the department, including training of employees.

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State Public Defender

DECISION ITEM SUMMARY

Budget Unit								
Decision Item	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Budget Object Summary	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Fund	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
EXTRAORDINARY EXPENSE/CONFLIC								
CORE								
EXPENSE & EQUIPMENT								
GENERAL REVENUE	2,558,057	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00
TOTAL - EE	2,558,057	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00
TOTAL	2,558,057	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00
GRAND TOTAL	\$2,558,057	0.00	\$2,558,059	0.00	\$2,558,059	0.00	\$2,558,059	0.00

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CORE DECISION ITEM

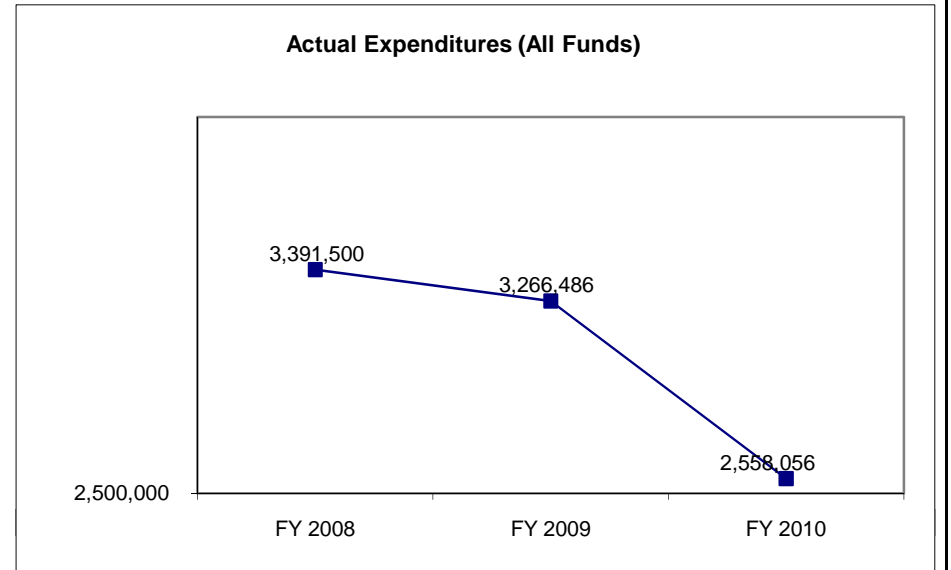
Department: State Public Defender					Budget Unit 15151C				
Division: Public Defender									
Core - Extraordinary Expenses & Conflict Costs Core Request									
1. CORE FINANCIAL SUMMARY									
	FY 2012 Budget Request					FY 2012 Governor's Recommendation			
	GR	Federal	Other	Total		GR	Federal	Other	Total
PS	0	0	0	0	PS	0	0	0	0
EE	2,558,059	0	0	2,558,059	EE	2,558,059	0	0	2,558,059
PSD	0	0	0	0	PSD	0	0	0	0
TRF	0	0	0	0	TRF	0	0	0	0
Total	2,558,059	0	0	2,558,059	Total	2,558,059	0	0	2,558,059
FTE	0.00	0.00	0.00	0.00	FTE	0.00	0.00	0.00	0.00
Est. Fringe	0	0	0	0	Est. Fringe	0	0	0	0
<i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i>					<i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i>				
Other Funds:					Other Funds:				
2. CORE DESCRIPTION									
<p>In Fiscal Year 1989, the Governor and Legislature established a separate appropriation for costs associated with conflict case re-assignments and extraordinary expenses related to providing representation in criminal cases. The appropriation is also used for funding the Capital Division Expenses.</p>									
3. PROGRAM LISTING (list programs included in this core funding)									
<p>To assist with the cost of legal representation of indigent persons accused of crimes within the State of Missouri.</p>									

CORE DECISION ITEM

Department:	State Public Defender	Budget Unit	15151C
Division:	Public Defender		
Core - Extraordinary Expenses & Conflict Costs Core Request			

4. FINANCIAL HISTORY

	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Current Yr.
Appropriation (All Funds)	3,391,502	3,391,502	2,558,059	2,558,059
Less Reverted (All Funds)	0	0	0	N/A
Budget Authority (All Funds)	3,391,502	3,391,502	2,558,059	N/A
Actual Expenditures (All Funds)	3,391,500	3,266,486	2,558,056	N/A
Unexpended (All Funds)	2	125,016	3	N/A
Unexpended, by Fund:				
General Revenue	0	0	0	N/A
Federal	0	0	0	N/A
Other	0	0	0	N/A



State Public Defender

DECISION ITEM DETAIL

Budget Unit	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Decision Item	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
EXTRAORDINARY EXPENSE/CONFLIC								
CORE								
TRAVEL, IN-STATE	256,431	0.00	225,000	0.00	265,000	0.00	265,000	0.00
TRAVEL, OUT-OF-STATE	16,070	0.00	40,000	0.00	20,000	0.00	20,000	0.00
FUEL & UTILITIES	5,571	0.00	7,500	0.00	7,500	0.00	7,500	0.00
SUPPLIES	34,786	0.00	32,500	0.00	37,500	0.00	37,500	0.00
COMMUNICATION SERV & SUPP	14,523	0.00	15,000	0.00	20,000	0.00	20,000	0.00
PROFESSIONAL SERVICES	2,034,782	0.00	1,989,559	0.00	1,989,559	0.00	1,989,559	0.00
M&R SERVICES	9,234	0.00	12,000	0.00	12,000	0.00	12,000	0.00
BUILDING LEASE PAYMENTS	180,771	0.00	228,000	0.00	198,000	0.00	198,000	0.00
EQUIPMENT RENTALS & LEASES	557	0.00	1,500	0.00	1,500	0.00	1,500	0.00
MISCELLANEOUS EXPENSES	5,332	0.00	7,000	0.00	7,000	0.00	7,000	0.00
TOTAL - EE	2,558,057	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00
GRAND TOTAL	\$2,558,057	0.00	\$2,558,059	0.00	\$2,558,059	0.00	\$2,558,059	0.00
GENERAL REVENUE	\$2,558,057	0.00	\$2,558,059	0.00	\$2,558,059	0.00	\$2,558,059	0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00

State Public Defender

DECISION ITEM SUMMARY

Budget Unit								
Decision Item	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Budget Object Summary	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Fund	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
DEBT OFFSET ESCROW FUND								
CORE								
PROGRAM-SPECIFIC								
DEBT OFFSET ESCROW	1,110,660	0.00	350,000	0.00	350,000	0.00	350,000	0.00
TOTAL - PD	1,110,660	0.00	350,000	0.00	350,000	0.00	350,000	0.00
TOTAL	1,110,660	0.00	350,000	0.00	350,000	0.00	350,000	0.00
GRAND TOTAL	\$1,110,660	0.00	\$350,000	0.00	\$350,000	0.00	\$350,000	0.00

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CORE DECISION ITEM

Department: State Public Defender	Budget Unit 15161C
Division: Public Defender	
Core: Debt Offset Escrow Fund Core Request	

1. CORE FINANCIAL SUMMARY

	FY 2012 Budget Request			
	GR	Federal	Other	Total
PS	0	0	0	0
EE	0	0	0	0
PSD	0	0	350,000	350,000
TRF	0	0	0	0
Total	0	0	350,000	350,000
FTE	0.00	0.00	0.00	0.00

Est. Fringe	0	0	0	0
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

	FY 2012 Governor's Recommendation			
	GR	Federal	Other	Total
PS	0	0	0	0
EE	0	0	0	0
PSD	0	0	350,000	350,000
TRF	0	0	0	0
Total	0	0	350,000	350,000
FTE	0.00	0.00	0.00	0.00

Est. Fringe	0	0	0	0
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Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.

Other Funds:

2. CORE DESCRIPTION

874 was passed which effectively removed the Treasurer's Office as the intermediary agency in processing releases from the Debt Offset Escrow Fund. Beginning with the Fiscal Year 1995 Budget, the Treasurer's Office no longer requests an appropriation from the fund, but rather each individual participating agency has an appropriation within the fund.

3. PROGRAM LISTING (list programs included in this core funding)

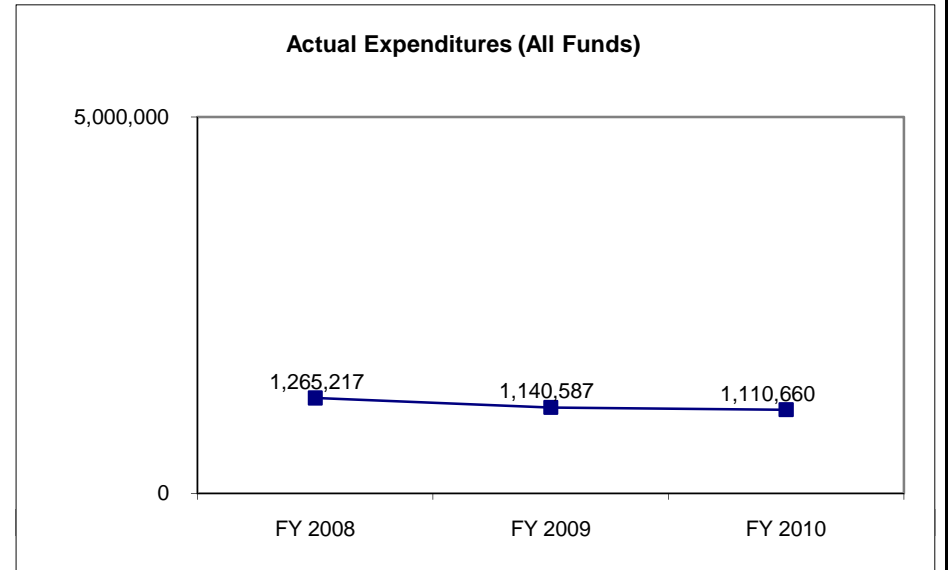
In Fiscal 2010, the State Public Defender System intercepted approximately \$1,140,000 of Missouri State Income Tax refunds from the Department of Revenue going to past clients who have or had outstanding debts to the State Public Defender System.

CORE DECISION ITEM

Department: State Public Defender	Budget Unit 15161C
Division: Public Defender	
Core: Debt Offset Escrow Fund Core Request	

4. FINANCIAL HISTORY

	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Current Yr.
Appropriation (All Funds)	350,000	350,000	350,000	350,000
Less Reverted (All Funds)	0	0	0	N/A
Budget Authority (All Funds)	350,000	350,000	350,000	N/A
Actual Expenditures (All Funds)	1,265,217	1,140,587	1,110,660	N/A
Unexpended (All Funds)	(915,217)	(790,587)	(760,660)	N/A
Unexpended, by Fund:				
General Revenue	0	0	0	N/A
Federal	0	0	0	N/A
Other	0	0	0	N/A



State Public Defender

DECISION ITEM DETAIL

Budget Unit	FY 2010	FY 2010	FY 2011	FY 2011	FY 2012	FY 2012	FY 2012	FY 2012
Decision Item	ACTUAL	ACTUAL	BUDGET	BUDGET	DEPT REQ	DEPT REQ	GOV REC	GOV REC
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
DEBT OFFSET ESCROW FUND								
CORE								
REFUNDS	1,110,660	0.00	350,000	0.00	350,000	0.00	350,000	0.00
TOTAL - PD	1,110,660	0.00	350,000	0.00	350,000	0.00	350,000	0.00
GRAND TOTAL	\$1,110,660	0.00	\$350,000	0.00	\$350,000	0.00	\$350,000	0.00
GENERAL REVENUE	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00
OTHER FUNDS	\$1,110,660	0.00	\$350,000	0.00	\$350,000	0.00	\$350,000	0.00

State Public Defender

DECISION ITEM SUMMARY

Budget Unit								
Decision Item	SUPPL DEPT	SUPPL DEPT	SUPPL GOV	SUPPL GOV	SUPPL GOV	SUPPL GOV	SUPPL	SUPPL
Budget Object Summary	REQUEST	REQUEST	RECOMMENDED	RECOMMENDED	REL RESERVE	REL RESERVE	MONTHS FOR	POSITION
Fund	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE		
OFFICE OF THE DIRECTOR								
Caseload Crisis-Trial Division - 2151001								
PERSONAL SERVICES								
GENERAL REVENUE	487,944	12.50	0	0.00	0	0.00	0	0.00
TOTAL - PS	487,944	12.50	0	0.00	0	0.00	0	0.00
EXPENSE & EQUIPMENT								
GENERAL REVENUE	278,065	0.00	0	0.00	0	0.00	0	0.00
TOTAL - EE	278,065	0.00	0	0.00	0	0.00	0	0.00
TOTAL	766,009	12.50	0	0.00	0	0.00	0	0.00
Caseload Crisis-Appellate/PCR - 2151002								
PERSONAL SERVICES								
GENERAL REVENUE	93,025	2.37	0	0.00	0	0.00	0	0.00
TOTAL - PS	93,025	2.37	0	0.00	0	0.00	0	0.00
EXPENSE & EQUIPMENT								
GENERAL REVENUE	64,691	0.00	0	0.00	0	0.00	0	0.00
TOTAL - EE	64,691	0.00	0	0.00	0	0.00	0	0.00
TOTAL	157,716	2.37	0	0.00	0	0.00	0	0.00
GRAND TOTAL	\$923,725	14.87	\$0	0.00	\$0	0.00	\$0	0.00

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SUPPLEMENTAL NEW DECISION ITEM

Department: State Public Defender					Budget Unit 15111C				
Division: Public Defender - Legal Services									
DI Name: Caseload Crisis - Trial Division					DI# 2151001				
					Original FY 2011 House Bill Section, if applicable 12.400				
1. AMOUNT OF REQUEST									
FY 2011 Supplemental Budget Request					FY 2011 Supplemental Governor's Recommendation				
	GR	Federal	Other	Total		GR	Federal	Other	Total
PS	487,944	0	0	487,944	PS	0	0	0	0
EE	278,065	0	0	278,065	EE	0	0	0	0
PSD	0	0	0	0	PSD	0	0	0	0
TRF	0	0	0	0	TRF	0	0	0	0
Total	766,009	0	0	766,009	Total	0	0	0	0
FTE	50.00	0.00	0.00	12.50	FTE	0.00	0.00	0.00	0.00
POSITIONS	50	0	0	50	POSITIONS	0	0	0	0
NUMBER OF MONTHS POSITIONS ARE NEEDED: 4					NUMBER OF MONTHS POSITIONS ARE NEEDED: _____				
Est. Fringe	252,023	0	0	252,023	Est. Fringe	0	0	0	0
<i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i>					<i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i>				
 Other Funds:					 Other Funds:				
2. WHY IS THIS SUPPLEMENTAL FUNDING NEEDED? INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.									
<p>In the current economic situation, there is no question that all of government must tighten its belt and trim the 'extras'. However, unlike most other departments of state government, Missouri's Public Defenders perform only one function and the level of performance is constitutionally mandated by both the U.S. and Missouri Constitutions. When that constitutional mandate is ignored, innocent people go to jail, guilty ones go free, and justice becomes anything but.</p>									

SUPPLEMENTAL NEW DECISION ITEM

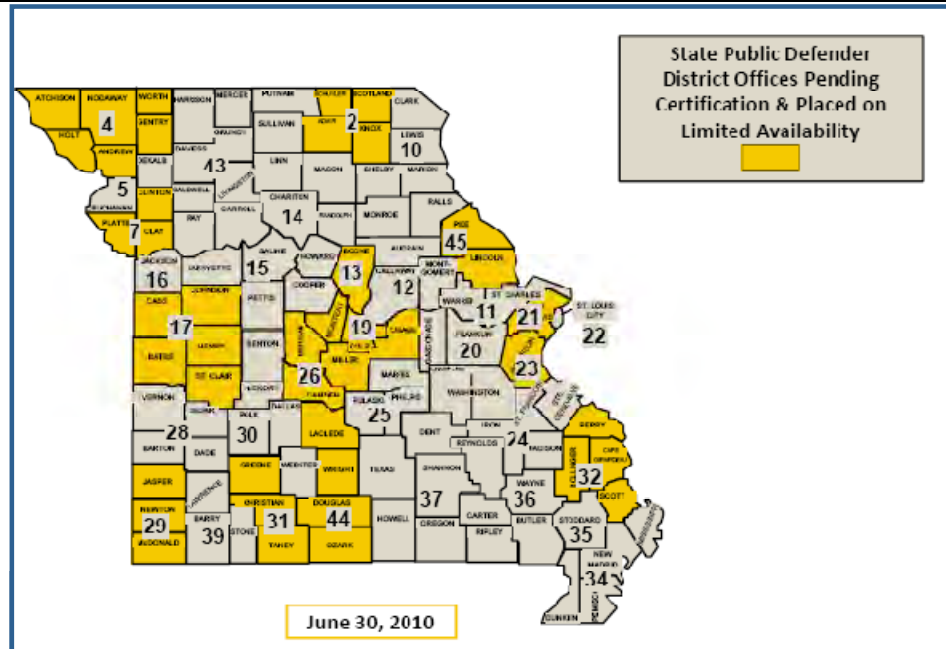
Department: State Public Defender
Division: Public Defender - Legal Services
DI Name: Caseload Crisis - Trial Division **DI#**2151001

Budget Unit 15111C

Original FY 2011 House Bill Section, if applicable 12.400

In the last five years, four separate studies have been done of the Missouri State Public Defender System and all have reached the same conclusion: Missouri's Public Defender System "is operating in crisis mode" and "the probability that public defenders are failing to provide effective assistance of counsel and are violating their ethical obligations to their clients increases every day." The last three Chief Justices have warned of this crisis in their State of the Judiciary speeches to the legislature and the U.S. Attorney General, Eric Holder, specifically named Missouri in a speech given in New York last year as an example of a broken indigent defense system. Something has to give.

When there are not sufficient resources to adequately staff the public defender system to handle all the eligible cases, public defenders have no choice but to limit the cases they accept. Anything else forces them to violate their ethical and professional responsibilities, exposing them to malpractice liability and professional discipline against their licenses to practice law.



As a result, in accordance with Public Defender Commission rules and the Missouri Supreme Court opinion issued in December, 2009, both described further below, two public defender offices began turning away cases above their maximum capacity in July, 2010. Fourteen other offices have given formal notice that they are at risk of having to do the same if the courts in their jurisdictions are unable to divert some of the less serious cases before they reaches the public defender office. In all, 22 judicial circuits and 53 counties are impacted, with more expected to follow.

SUPPLEMENTAL NEW DECISION ITEM

Department: <u>State Public Defender</u> Division: <u>Public Defender - Legal Services</u> DI Name: <u>Caseload Crisis - Trial Division</u> <u>DI#2151001</u>	Budget Unit <u>15111C</u> Original FY 2011 House Bill Section, if applicable <u>12.400</u>
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The current statutory scheme requires Missouri's public defenders to defend not only those charged with serious offenses such as rape, murder, assault, and robbery but also a host of nonviolent, minor offenses such as driving while revoked, truancy, and possession of drug paraphernalia; and a variety of debt collection offenses such as criminal nonsupport, bad checks, and failure to return rental property. In this economic climate, adequately staffing the public defender system to defend all of these cases is as far beyond the state's ability to fund as the caseload itself is above the public defender system's ability to handle. As a result, while the enclosed budget request shows the full cost of fixing the problem of indigent defense in Missouri, it also proposes a four-year phase-in of that cost. This will not solve the crisis in Missouri's public defender system. If it is not possible to staff the public defender to handle all the cases coming its way, it only makes sense to prioritize public defender resources to handle the most serious criminal offenses and take the minor matters off the list of responsibilities. We strongly encourage a serious exploration of ways to do that. Tight budget times call for creative approaches and a different way of thinking by all.

3. DESCRIBE THE DETAILED ASSUMPTIONS USED TO DERIVE THE SPECIFIC REQUESTED AMOUNT. (How did you determine that the requested number of FTE were appropriate? How many positions do the requested FTE equal and for how many months do you need the supplemental funding? From what source or standard did you derive the requested levels of funding? Were alternatives such as outsourcing or automation considered? If based on new legislation, does request tie to TAFP fiscal note? If not, explain why.)

SUPPLEMENTAL NEW DECISION ITEM

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Caseload Crisis - Trial Division	DI#2151001	Original FY 2011 House Bill Section, if applicable 12.400

Missouri Public Defender Commission Caseload Crisis Protocol: NATIONAL CASELOAD STANDARDS

In May of 2006, the American Bar Association issued an ethical advisory opinion warning against ethical violations caused by excessive defender caseloads and highlighting the professional responsibility of both defenders and courts to take steps to avoid such ethical violations. That opinion cited the National Advisory Counsel caseload standards as guidance for defenders and courts in determining when public defenders are carrying excessive caseloads. See, *ABA Formal Opinion 06-441: Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseload Interfere with Competent and Diligent Representation*, May 13, 2006.

In November, 2007, the Missouri Public Defender Commission adopted a new agency rule and caseload crisis protocol (18 CSR 10-4.010). The two together establish a procedure for determining the maximum caseload each public defender office can reasonably and ethically be expected to handle. When the total workload hours of the cases assigned to the office have exceeded the maximum allowable workloads for that office for three consecutive months, the Rule authorizes the MSPD Director to place a district on 'limited availability status' and begin turning away excess cases. The rule, as originally adopted, indicated that the offices would do this by identifying certain category of cases -- minor misdemeanors, probation revocation cases, etc -- that would no longer be eligible for defender services in order to triage attorney time toward the more serious offenses. The rule went into effect in August, 2008 and not long thereafter, the Commission's authority to set maximum caseloads was challenged.. (This litigation was pending at the time Senator Jack Goodman sponsored SB 37 during the 2009 legislative session, clarifying the statutory language to leave no doubt that the legislature did in fact intend to give the Commission such authority. Although that bill was vetoed by the Governor, the Missouri Supreme Court wound up ruling that the Commission did in fact already have that authority under the current statutory language without the changes proposed by SB 37.)

The issue went to the Missouri Supreme Court and in December, 2009, the Court issued its opinion in State ex. rel. **Missouri Public Defender Commission v. Pratt**, 298 S.W.3d 870, 877 (Mo. banc 2009). In that ruling, the Court acknowledged the Commission's authority to set maximum caseloads but ruled that it did not have the authority to unilaterally triage the caseload by excluding particular categories of cases. Under the opinion, the only way in which a public defender office can refuse excess cases is to simply close the doors to all new cases, regardless of case type or confinement status of the accused. That revised rule is the one under which MSPD is now operating.

SUPPLEMENTAL NEW DECISION ITEM

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Caseload Crisis - Trial Division	DI#2151001	Original FY 2011 House Bill Section, if applicable 12.400

In developing the maximum allowable caseload standard for each office, the Public Defender Commission looked to national caseload standards. The National Advisory Counsel of the U.S. Department of Justice Task Force on the Courts developed maximum recommended caseload standards for public defenders in 1972. Those standards have formed the basis for most public defender caseload standards presently in existence around the country. (See, Compendium of Standards for Indigent Defense System compiled by the Institute for Law and Justice under a contract with the Bureau of Justice Assistance, December, 2000.) The NAC caseload standards are set out below, rounded to the nearest whole number:

NAC CASELOAD STANDARDS	
Non-Capital Homicides	12 cases per year or 1 new case per month
Felonies	150 cases per year or 12.5 new cases per month
Misdemeanors	400 cases per year or 33 new cases per month
Juvenile	200 cases per year or 17 new cases per month
Appeals	25 cases per year or 2 new cases per month

The NAC standards did not address post-conviction matters, sexually-violent predator commitment cases, or capital cases. They also did not allot any attorney time for supervisory, administrative, or training tasks, account for travel time in rural vs. urban jurisdictions, or consider the availability or lack of support staff as factors in determining the time lawyers would have available to spend preparing their cases.

The ABA recognized this deficiency in its May, 2006 ethical advisory opinion, pointing out, “**Although [national] standards may be considered, they are not the sole factor in determining if a workload is excessive. Such a determination depends not only on the number of cases, but also on such factors as case complexity, the availability of support services, the lawyer’s experience and ability, and the lawyer’s nonrepresentational duties.**” ABA Formal Opinion 06-441, p 4. [Emphasis added.]

SUPPLEMENTAL NEW DECISION ITEM

Department: State Public Defender
Division: Public Defender - Legal Services
DI Name: Caseload Crisis - Trial Division **DI#**2151001

Budget Unit 15111C

Original FY 2011 House Bill Section, if applicable 12.400

MSPD MODIFICATION OF NAC STANDARDS:

The MSPD caseload crisis protocol follows the ABA opinion in using the NAC standard as its foundation, but builds upon it in order to address the omissions described above and the particular circumstances of Missouri Public Defender Offices. These modifications, which are set out below, will be subject to annual review and adjustment as necessary.

Case Weights = Hours per Case

01) Measuring case hours, rather than case numbers, allows us to both assign weights to cases and more easily add into the equation attorney hours spent in essential, but non-case-related tasks. The caseload numbers of the NAC standard were therefore converted to hours per case type. The NAC standard assumed a standard 40 hour work week or 2080 attorney hours available over the course of a year. Dividing the total available hours by the maximum number of allowable cases per year, the NAC standard results in the following hours per case type (rounded to the nearest whole number):

NAC HOURS PER CASE TYPE	
Non-Capital Homicides	173 hours per case
Felonies	14 hours per case
Misdemeanors	5 hours per case
Juvenile	10 hours per case
Appeals	83 hours per case

SUPPLEMENTAL NEW DECISION ITEM

Department: State Public Defender
Division: Public Defender - Legal Services
DI Name: Caseload Crisis - Trial Division **DI#**2151001

Budget Unit 15111C

Original FY 2011 House Bill Section, if applicable 12.400

02) The NAC standards do not distinguish between types of felony offenses. However, MSPD's internal workload study did make that distinction. (See Appendix B re MSPD Internal Workload Study) Not surprisingly, the results of that study indicated that sex offense cases take significantly more time to prepare and defend than drug and other felony cases under current Missouri law. For that reason, this standard modifies the NAC broad "Felony" offense category by dividing it into subcategories of Sex Offenses and Other Felony Offenses. The MSPD internal workload study showed that MSPD attorneys are currently -- even with existing case overloads -- spending an average of 31 hours per case on sex offense cases, so that number was used in lieu of the 14 hours per case for general felony cases.

MSPD MODIFIED NAC HOURS PER CASE TYPE	
Non-Capital Homicides	173 hours per case
Sex Offenses - A & B	31 hours per case
Other Felonies Offenses	14 hours per case
Misdemeanors	5 hours per case
Juvenile	10 hours per case
Appeals	83 hours per case
29.15 Cases	62 hours per case
24.035 Cases	21 hours per case
Probation Violations	5 hours per case

03) The NAC standards do not address probation violation cases. MSPD deems each of those cases the same as a misdemeanor case for purposes of the protocol, regardless of whether the underlying case was a felony or a misdemeanor.

04) The NAC standards do not address post-conviction cases. MSPD currently weighs post-trial 29.15 motions and appeals as equal to three-fourths of a direct appeal and post-plea 24.035 motions and appeals as equal to one-fourth of a direct appeal for purposes of this

SUPPLEMENTAL NEW DECISION ITEM

Department: <u>State Public Defender</u> Division: <u>Public Defender - Legal Services</u> DI Name: <u>Caseload Crisis - Trial Division</u> DI# <u>2151001</u>	Budget Unit <u>15111C</u> Original FY 2011 House Bill Section, if applicable <u>12.400</u>
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05) The NAC standards do not address capital or sexually violent predator cases. MSPD limits each of its capital attorneys to no more than six open capital cases. This is based upon a Florida study in which attorneys defending death penalty cases in the manner set forth by the ABA death penalty standards tracked their hours per case and determined that an attorney could effectively handle no more than 3 capital cases per year per attorney. Since each of MSPD's capital cases is assigned two attorneys who divide the work on the case between them, MSPD has raised that caseload standard to 6 open capital cases per attorney. Because of the stricter time standards in post conviction, the caseloads of capital PCR attorneys are kept at around 5 open cases per attorney. Sexually violent predator caseloads are currently capped at 8 open cases per attorney at a time. MSPD usually contracts cases in excess of these limits to private counsel.

Non-Case-Related Work Hours:

As the ABA Ethical Advisory Opinion recognized, every attorney has non-case-related responsibilities that have to be considered when determining whether an attorney's workload has become untenable. MSPD has adjusted for these by adding each of the following categories into the total workload calculation when determining case overload under this protocol.

1) ANNUAL AND HOLIDAY LEAVE: MSPD is a state agency and required by state law to permit its employees a set amount of annual and holiday leave each year. While a number of its attorneys work those days of their own volition, MSPD cannot require its attorneys to give up these days and therefore must build them into any determination of how many attorney hours are available to handle the caseload. While hours of annual leave increase with seniority, this protocol utilizes the minimum annual leave accrual of ten hours per month or 120 hours per year. In addition, the State of Missouri recognizes 12 state holidays, which translate into 96 holiday hours per year for a total of 216 hours annual and holiday leave, which must be deducted from the total number of available attorney hours.

2) SICK LEAVE: MSPD is required to allocate to its employees a set amount of sick leave each month, although this leave may not be used without good cause. When sick leave is used by employees – particularly for extended periods of FMLA leave – it reduces the number of attorney hours available to handle cases. To account for this leave without overestimating its impact, this protocol draws upon the experience of the preceding year in anticipating how much sick leave is likely to be utilized. In 2010, 2.68% of total attorney hours was used for sick leave. That percentage is therefore subtracted from the available attorney hours for handling caseload.

3) NON-CASE-RELATED TASKS: The practice of law in MSPD inevitably includes significant amounts of time taken up with non-case-related matters, some inherent in the practice of law such as continuing legal education and time spent waiting in court for cases to be called or at the jail waiting for clients to be produced. Of greater significance is the time MSPD attorneys spend doing primarily administrative tasks such as copying discovery, updating court dates, etc. because of the critical shortage of support staff within our offices. The average amount of time spent by MSPD attorneys on these tasks was determined through the MSPD workload study in which employees were required to track their time, by category of task, in fifteen-

SUPPLEMENTAL NEW DECISION ITEM

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Caseload Crisis - Trial Division	DI#2151001	Original FY 2011 House Bill Section, if applicable
			12.400

non-case-related tasks. Those hours must be deducted from the hours available for handling cases. If the number of support staff were to be increased, the number of attorney hours available for case work and the overall numbers of cases the office could handle before reaching critical proportions would likewise increase. For the meantime, however, the weighted workload caps used in the caseload crisis protocol must continue to account for the shortage of support staff and count those hours as part of the attorney workloads.

4) TRAVEL TIME: The average amount of attorney time spent in travel varies with the location and coverage area of the office. This is estimated by taking the total number of miles traveled by each office during the preceding year and translating that into travel time using an average of 45 miles per hour -- an average of highway, two-lane and busy, urban roadway travel times.

5) MANAGEMENT / SUPERVISORY TIME: The amount of time needed for management duties within a district office varies with the size of the office and the number of people supervised. MSPD's experience has shown that effective management and supervision within a district office require an average of 1.5 hours per week of supervisor time per employee supervised. E.g., in an office of 3 attorneys and 2 support staff, the District Defender should expect to spend an average of 7.5 hours per week [5 employees x 1.5 hours] on management and supervisory responsibilities. Because most of MSPD's District and Deputy District Defenders also carry caseloads and are included in the "available attorney hours" equation, the time they devote to their management / supervisory tasks is deducted from the total attorney hours available within that district office to handle caseload.

CALCULATION OF DISTRICT OFFICE WORKLOAD:

Attorney Hours Available for Case Work:

For purposes of the protocol and putting offices on "limited availability", caseloads are reviewed on a rolling 3 months. For the purposes of budgeting, the caseloads and staffing are reviewed using fiscal year numbers.

The annual available attorney hours used is 2340 hours or 45 hours per week per attorney. To determine the number of those hours available for actually handling cases, we must deduct the hours used up in non-case-related matters as set out above. Averages (rounded to the nearest half hour) that apply statewide can be deducted up front, as follows:

2,340.00	ANNUAL AVAILABLE HOURS PER ATTORNEY
320.50	AVERAGE NON-CASE-RELATED TASKS [13.7% of 2340]
<u>278.62</u>	AVERAGE HOLIDAYS, ANNUAL LEAVE AND SICK LEAVE
1,740.88	AVERAGE AVAILABLE HOURS PER ATTORNEY PER YEAR

SUPPLEMENTAL NEW DECISION ITEM

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Caseload Crisis - Trial Division	DI#2151001	Original FY 2011 House Bill Section, if applicable 12.400

Management and travel time still have to be deducted, but because these vary with the number of employees and geographic size of each district, they must be calculated at the local district level, as follows:

Management / Supervisory Hours: To determine the average management / supervisory hours within a given office over a fiscal year, multiply the number of employees to be supervised by 78 (1.5 hours x 52 weeks). For example, a District Defender who supervised 15 lawyers and 8 support staff, for a total of 23 employees should anticipate 1,794 hours of management time in that year. Because all supervision is provided by one or more attorneys serving as the District and/or Deputy District Defender, these hours reduce the available attorney hours to handle cases within that District, as shown in the example below.

Travel Time: The average number of attorney miles traveled over a fiscal year is based upon the number of attorney miles traveled in that district during the previous fiscal year. Miles are converted to hours using an average of 45 miles per hour. Assume our sample district traveled 5000 attorney miles last fiscal year. That translates into 111 attorney hours spent in travel within that district. Those hours are not available for the handling of cases and must be deducted from the district's available attorney hours, as shown in the example.

EXAMPLE:

26,113.20	Total available attorney hours per year (1,752 x 15 lawyers) (District Defender + 15 Assistant Public Defenders)
1,794.00	Management hours required (15 lawyers + 8 staff = 23 x 78 hours per yr)
<u>111.00</u>	Average attorney travel hours for district over the fiscal year
24,208.20	DISTRICT OFFICE MAXIMUM ALLOWABLE CASELOAD STANDARD

The maximum allowable caseload standard number is the maximum number of attorney hours available to handle cases within that district office over the fiscal year. To determine if an office is exceeding that standard, we must then compare this number to the hours required to handle the caseload that office has been assigned during the fiscal year under examination.

SUPPLEMENTAL NEW DECISION ITEM

Department: State Public Defender
Division: Public Defender - Legal Services
DI Name: Caseload Crisis - Trial Division DI#2151001

Budget Unit 15111C

Original FY 2011 House Bill Section, if applicable 12.400

Hours Required to Handle Office Caseload

We determine the number of cases assigned to that office in each category of case type – e.g. how many murders, how many sex cases, how many felony drug cases, etc. during the preceding fiscal year. The number of cases in each category is then multiplied by the number of hours set forth in the Missouri State Public Defender Modified NAC table shown previously, and then totaled to determine the total number of attorney hours *needed* to handle the caseload assigned to that district for the three-month interval examined.

Note: This protocol calculates attorney hours based upon new cases assigned. It does not count hours being spent now on cases that were assigned four or five months ago that remain open. This is balanced out by counting the total number of hours required to handle each new case assigned as falling entirely within the fiscal year interval under examination even though, in reality, those hours – like the current open cases -- will be spread over several months, perhaps years, to come. The one balances out the other and the result is a reasonably accurate assessment of average actual workload. Cases disposed via Withdrawal, Conflict, or Assignment are subtracted from the protocol as minimal work is done on these disposition types.

TRIAL DIVISION FOUR YEAR PHASE IN

Due to the severe nature of this decision item and the costs involved to resolve this crisis, the Missouri State Public Defender is requesting that the funding to alleviate the crisis be phased in. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. An additional one-fourth of the costs will be requested in FY2012. Additional funding of the Missouri State Public Defender Protocol will be requested in future years and will be based on future caseloads.

SUPPLEMENTAL NEW DECISION ITEM

Department: State Public Defender			Budget Unit 15111C							
Division: Public Defender - Legal Services										
DI Name: Caseload Crisis - Trial Division		DI#2151001		Original FY 2011 House Bill Section, if applicable					12.400	
4. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.										
	Dept Req	Dept Req	Dept Req	Dept Req	Dept Req	Dept Req	Dept Req	Dept Req	Dept Req	
	GR	GR	FED	FED	OTHER	OTHER	TOTAL	TOTAL	One-Time	
Budget Object Class/Job Class	DOLLARS	FTE	DOLLARS	FTE	DOLLARS	FTE	DOLLARS	FTE	DOLLARS	
Assistant Public Defender III - Range 30	319,176	6.5					319,176	6.5		
Investigator - Range 23	69,288	2.0					69,288	2.0		
Secretary - Range 12	47,592	2.0					47,592	2.0		
Legal Assistant - Range 15	51,888	2.0					51,888	2.0		
Total PS	487,944	12.5	0	0.0	0	0.0	487,944	12.5	0	
Travel - 140	61,275						61,275			
Supplies - 190	6,250						6,250			
Communications - 340	15,000						15,000			
Computer Equipment - 480	110,650						110,650		110,650	
Office Equipment - 590	20,800						20,800		20,800	
Other Equipment - 580	64,090						64,090		64,090	
Total EE	278,065		0		0		278,065		195,540	
Program Distributions							0		0	
Total PSD	0		0		0		0		0	
Transfers							0		0	
Total TRF	0		0		0		0		0	
Grand Total	766,009	12.5	0	0.0	0	0.0	766,009	12.5	195,540	

State Public Defender

DECISION ITEM DETAIL

Budget Unit	SUPPL DEPT	SUPPL DEPT	SUPPL GOV	SUPPL GOV	SUPPL GOV	SUPPL GOV	SUPPL	SUPPL
Decision Item	REQUEST	REQUEST	RECOMMENDED	RECOMMENDED	REL RESERVE	REL RESERVE	MONTHS FOR	POSITION
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE		
PUBLIC DEFENDER SVS PS-0101								
Caseload Crisis-Trial Division - 2151001								
SECRETARY	99,480	4.00	0	0.00	0	0.00	0	0.00
INVESTIGATOR	69,288	2.00	0	0.00	0	0.00	0	0.00
ASSISTANT PUBLIC DEFENDER	319,176	6.50	0	0.00	0	0.00	0	0.00
TOTAL - PS	487,944	12.50	0	0.00	0	0.00	0	0.00
GRAND TOTAL	\$487,944	12.50	\$0	0.00	\$0	0.00	\$0	0.00
GENERAL REVENUE	\$487,944	12.50	\$0	0.00	\$0	0.00		0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
PUBLIC DEFENDER SVS E&E-0101								
Caseload Crisis Trial Division 2151001								
TRAVEL, IN-STATE	61,275	0.00	0	0.00	0	0.00	0	0.00
SUPPLIES	6,250	0.00	0	0.00	0	0.00	0	0.00
COMMUNICATION SERV & SUPP	15,000	0.00	0	0.00	0	0.00	0	0.00
COMPUTER EQUIPMENT	110,650	0.00	0	0.00	0	0.00	0	0.00
OFFICE EQUIPMENT	64,090	0.00	0	0.00	0	0.00	0	0.00
OTHER EQUIPMENT	20,800	0.00	0	0.00	0	0.00	0	0.00
TOTAL - EE	278,065	0.00	0	0.00	0	0.00	0	0.00
GRAND TOTAL	\$278,065	0.00	\$0	0.00	\$0	0.00	\$0	0.00
GRAND TOTAL	\$766,009	12.50	\$0	0.00	\$0	0.00	\$0	0.00
GENERAL REVENUE	\$766,009	12.50	\$0	0.00	\$0	0.00		0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00

FY2010 ASSIGNED CASES - Trial Division & Contract Counsel					
Case Type		FY10 Trial Division Cases	FY10 Case Overload Contract Relief	Hours Required for Case Type	FY10 NAC Modified Required Hours
15	Murder 1st Degree	132	5	173	23,701
20	Other Homicide	153	3	173	26,988
30D	AB Felony Drug	3,260	76	14	46,704
30F	AB Felony Other	3,618	87	14	51,870
30X	AB Felony Sex	689	7	31	21,576
35D	CD Felony Drug	5,324	91	14	75,810
35F	CD Felony Other	20,353	323	14	289,464
35X	CD Felony Sex	364	4	31	11,408
45M	Misdemeanor	17,688	119	5	89,035
45T	Misdemeanor - Traffic	6,841	21	5	34,310
50N	Juvenile - Non Violent	1,339	1	10	13,400
50S	Juvenile - Status	258		10	2,580
50V	Juvenile - Violent	753	6	10	7,590
60	552 Release Petitions	33		14	462
65F	Probation Violation - Felony	14,171	39	5	71,050
65M	Probation Violation - Misd	5,877	14	5	29,455
75	Special Writ	4		83	332
80	Appeal - Misdemeanor	2		83	166
82	Appeal - Other	34		83	2,822
	Totals	80,893	796		
2340.00	Standard Work Hours (45 hrs. *52 wks)				
-62.62	Attorney Sick Leave			Case Hours	798,723
-216.00	Holidays and Annual Leave	Adjusted for Withdrawn & Conflicts			-138,506
-320.50	Non Case Related Hours (13.7%)			Travel Hours	32,343
1740.88	Available Attorney Case Hours			Management Hours	32,916
				Total Hours	725,476
		Attorneys Required (Total Hours/1740.88)			417
		Number of Current TD Attorneys			311
		Number of TD Attorneys Needed*			106

* Does not include CDU

SUPPLEMENTAL NEW DECISION ITEM

Department: State Public Defender	Budget Unit 15111C
Division: Public Defender - Legal Services	
DI Name: Appellate/PCR Caseload Crisis DI# 2151002	Original FY 2011 House Bill Section, if applicable 12.400

1. AMOUNT OF REQUEST

FY 2011 Supplemental Budget Request					FY 2011 Supplemental Governor's Recommendation				
	GR	Federal	Other	Total		GR	Federal	Other	Total
PS	93,024	0	0	93,025	PS	0	0	0	0
EE	64,691	0	0	64,691	EE	0	0	0	0
PSD	0	0	0	0	PSD	0	0	0	0
TRF	0	0	0	0	TRF	0	0	0	0
Total	157,715	0	0	157,716	Total	0	0	0	0
FTE	9.50	0.00	0.00	3.00	FTE	0.00	0.00	0.00	0.00
POSITIONS	10	0	0	10	POSITIONS	0	0	0	0
NUMBER OF MONTHS POSITIONS ARE NEEDED: _____					NUMBER OF MONTHS POSITIONS ARE NEEDED: _____				

Est. Fringe	48,047	0	0	48,047
<i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i>				

Est. Fringe	0	0	0	0
<i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i>				

Other Funds:

Other Funds:

2. WHY IS THIS SUPPLEMENTAL FUNDING NEEDED? INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.

APPELLATE/PCR DIVISION FOUR YEAR PHASE IN -

Due to the severe nature of this issue and the costs involved to resolve Public Defender caseload crisis - the funding to alleviate the crisis has been requested in phases. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. The cost to continue the 2011 funding is this first priority in the 2012 Request. The second phase or the next twenty-five percent of the solution is requested as a new decision item in Fiscal Year 2012. The justification and explanation of decision items can be found in the "Trial Division - Supplemental Caseload Crisis" narrative.

SUPPLEMENTAL NEW DECISION ITEM

Department:	State Public Defender	Budget Unit	15111C
Division:	Public Defender - Legal Services		
DI Name:	Appellate/PCR Caseload Crisis	DI#	2151002
		Original FY 2011 House Bill Section, if applicable	12.400

3. DESCRIBE THE DETAILED ASSUMPTIONS USED TO DERIVE THE SPECIFIC REQUESTED AMOUNT. (How did you determine that the requested number of FTE were appropriate? How many positions do the requested FTE equal and for how many months do you need the supplemental funding? From what source or standard did you derive the requested levels of funding? Were alternatives such as outsourcing or automation considered? If based on new legislation, does request tie to TAFP fiscal note? If not, explain why.)

Appellate Division Protocol				
Description	FY10 Cases Opened	FY10 Case Overload Contract Relief	Protocol Hours Required for Case Type	Hours Required for Case Type
Death Penalty PCR	5	0	NA	0
Civil Commitment Cases	16	0	NA	0
Felony Appeals	396	20	83	34,528
Misdemeanor Appeals	31	0	83	2,573
Juvenile Appeals	8	3	83	913
PCR Appeals	468	1	62	29,078
PCR 24.035 Trials	699	178	21	18,417
PCR 29.15 Trials	278	8	62	17,732
Other	<u>20</u>	<u>1</u>	21	<u>441</u>
Total Number of Cases	1,921	211		
	Case Hours			103,682.00
	Adjusted for Withdrawn & Conflicts			-11,617.00
	Travel Hours			1,392.84
	Management Hours			<u>3,822.00</u>
	Total Hours			97,279.84
Attorneys Required (102,671/1740.88)				55.88
FY2010 - Public Defender Appellate Division Attorneys				<u>36.50</u>
Number of Additional Attorneys Required to meet Standard				19.38

SUPPLEMENTAL NEW DECISION ITEM

Department:	State Public Defender			Budget Unit		15111C			
Division:	Public Defender - Legal Services								
DI Name:	Appellate/PCR Caseload Crisis		DI#	2151002		Original FY 2011 House Bill Section, if applicable			12.400
4. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.									
	Dept Req	Dept Req	Dept Req	Dept Req	Dept Req	Dept Req	Dept Req	Dept Req	Dept Req
	GR	GR	FED	FED	OTHER	OTHER	TOTAL	TOTAL	One-Time
Budget Object Class/Job Class	DOLLARS	FTE	DOLLARS	FTE	DOLLARS	FTE	DOLLARS	FTE	DOLLARS
Assistant Public Defender III - Range 30	61,380	5.0					61,380	5.0	
Investigator - Range 23	12,992	1.5					12,992	1.5	
Secretary - Range 12	8,924	1.5					8,924	1.5	
Legal Assistant - Range 15	9,729	1.5					9,729	1.5	
							0	0.0	0
Total PS	93,025	9.5	0	0.0	0	0.0	93,025	9.5	0
Travel - 140	11,681						11,681		
Supplies - 190	1,188						1,188		
Communications - 340	2,850						2,850		
Building Leases 680	4,512						4,512		
Computer Equipment - 480	25,915						25,915		25,915
Office Equipment - 590	4,630						4,630		4,630
Other Equipment - 580	13,915						13,915		13,915
Total EE	64,691		0		0		64,691		44,460
Program Distributions							0		0
Total PSD	0		0		0		0		0
Transfers							0		0
Total TRF	0		0		0		0		0
Grand Total	157,716	9.5	0	0.0	0	0.0	157,716	9.5	44,460

State Public Defender

DECISION ITEM DETAIL

Budget Unit	SUPPL DEPT	SUPPL DEPT	SUPPL GOV	SUPPL GOV	SUPPL GOV	SUPPL GOV	SUPPL	SUPPL
Decision Item	REQUEST	REQUEST	RECOMMENDED	RECOMMENDED	REL RESERVE	REL RESERVE	MONTHS FOR	POSITION
Budget Object Class	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE		
PUBLIC DEFENDER SVS PS-0101								
Caseload Crisis-Appellate/PCR - 2151002								
SECRETARY	18,653	0.75	0	0.00	0	0.00	0	0.00
INVESTIGATOR	12,992	0.37	0	0.00	0	0.00	0	0.00
ASSISTANT PUBLIC DEFENDER	61,380	1.25	0	0.00	0	0.00	0	0.00
TOTAL - PS	93,025	2.37	0	0.00	0	0.00	0	0.00
GRAND TOTAL	\$93,025	2.37	\$0	0.00	\$0	0.00	\$0	0.00
GENERAL REVENUE	\$93,025	2.37	\$0	0.00	\$0	0.00		0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
Caseload Crisis-Appellate/PCR - 2151002								
TRAVEL, IN-STATE	11,681	0.00	0	0.00	0	0.00	0	0.00
SUPPLIES	1,188	0.00	0	0.00	0	0.00	0	0.00
COMMUNICATION SERV & SUPP	2,850	0.00	0	0.00	0	0.00	0	0.00
COMPUTER EQUIPMENT	25,915	0.00	0	0.00	0	0.00	0	0.00
OFFICE EQUIPMENT	13,915	0.00	0	0.00	0	0.00	0	0.00
OTHER EQUIPMENT	4,630	0.00	0	0.00	0	0.00	0	0.00
BUILDING LEASE PAYMENTS	4,512	0.00	0	0.00	0	0.00	0	0.00
TOTAL - EE	64,691	0.00	0	0.00	0	0.00	0	0.00
GRAND TOTAL	\$64,691	0.00	\$0	0.00	\$0	0.00	\$0	0.00
GRAND TOTAL	\$157,716	2.75	\$0	0.00	\$0	0.00	\$0	0.00
GENERAL REVENUE	\$157,716	2.75	\$0	0.00	\$0	0.00		0.00
FEDERAL FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00
OTHER FUNDS	\$0	0.00	\$0	0.00	\$0	0.00		0.00